

**Full Council**

**14 December 2023**

**Report for Agenda Item | Rīpoata moto e Rāraki take [3]**

**Department: Property & Infrastructure**

**Title | Taitara: Lakeview Subdivision underground services easements for Queenstown Lakes District Council, over the James Clouston Memorial Park and the Lakeview Recreation Reserve, Queenstown**

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to consider several water and sewage underground services easements in favour of Queenstown Lakes District Council (QLDC), over the James Clouston Memorial Park and the Lakeview Recreation Reserve, Queenstown.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** the following underground services easements over Council Reserve Land, Shown in Attachment A, legally described as:
  - a. James Clouston Memorial Park Recreation reserve, Lot 1 DP 524367, Right to drain water, **Area A** – 921m<sup>2</sup> (12.9 to 15.5m wide)
  - b. Lakeview Recreation Reserve, Lot 1 DP 7498, Right to drain sewage, **Area B** - 100m<sup>2</sup> (4.4 to 4.7m wide)
  - c. Lakeview Recreation Reserve, Lot 1 DP 7498, Right to drain sewage, **Area C** - 76m<sup>2</sup> (5.9m wide)
  - d. Lakeview Recreation Reserve, Lot 1 DP 7498, Right to drain water, **Area D** - 555m<sup>2</sup> (4.5 to 5.9m wide)
  - e. Lakeview Recreation Reserve, James Clouston Memorial Park Recreation Reserve Lot 1 DP 7498, Right to drain sewage, **Area E** - 230m<sup>2</sup> (2.1 to 4.4m wide)
  - f. The easement areas have a combined total of approximately **1,882 m<sup>2</sup>**.

3. **Direct** that the approval of the easements over Council reserve land is subject to the following conditions:
  - a. Easement Fees to be determined and paid in accordance with Council's Easement Policy 2008.
  - b. Reinstatement and landscaping of any disturbed areas to be completed to the satisfaction of the QLDC Parks team.
4. **Agree** that notification to grant the easement is not required, as the statutory test in Section 48(3) of the Reserves Act 1977 is met for the reasons set out in this report;
5. **Delegate** authority to approve final terms and conditions, and execution authority to the General Manager Community Services, provided all relevant requirements of the Easement Policy 2008 are addressed; and
6. **Agree** to exercise the Minister's consent (under delegation from the Minister of Conservation) to the granting of the identified easements over Council Reserve Land.

Prepared by:



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**Title:** Senior Parks and Reserves Planner  
**Date:** 22 November 2023

Reviewed and Authorised by:



**Name:** Kenneth Bailey  
**Title:** General Manager Community Services  
**Date:** 28 November 2023

## Context | Horopaki

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1. Council administers the Recreation Reserves, known as James Clouston Memorial Park and Lakeview Recreation Reserve, legally described as Lot 1 DP 524367; Lot 1 DP 7498 Sections 13, 15 Block XXIX Town of Queenstown; Section 14 Block XI TN OF Queenstown, as shown in the plan in **ATTACHMENT A**. The reserves are within and adjacent to the former Lakeview Holiday Park at 4 Cemetery Road, Queenstown, which is currently being re-developed for subdivision by Queenstown Lakes District Council (QLDC). The area is referred to in this report as 'Lakeview'.
2. The site is located on the western side of Queenstown. The area has a general slope downwards towards Lake Wakatipu. The site is bordered by Thompson Street and Man Street to the south, residential houses to the west, Ben Lomond Reserve to the north, and the remaining portion of the active Lakeview campground to the east.
3. RM170924 (varied by RM210013) was granted on 18 February 2019 for a subdivision consent to create 17 allotments, including associated earthworks.
4. QLDC requests access by way of easement to provide for a series of easements in favour of QLDC for underground services associated with the subdivision, for the right to drain water and sewage. The proposed easement locations are shown in **ATTACHMENT A**.

## Analysis and Advice | Tatāritaka me kā Tohutohu

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5. Section 48 of The Reserves Act 1977 (The Reserves Act) allows for the consideration of the proposed easement on Recreation Reserves:

### *s48 Grants of rights of way and other easements*

*(1) Subject to subsection (2) and to the Natural and Built Environment Act 2023, in the case of reserves vested in an administering body, the administering body, with the consent of the Minister and on such conditions as the Minister thinks fit, may grant rights of way and other easements over any part of the reserve for—*

*(a) any public purpose; or*

*(b) providing access to any area included in an agreement, lease, or licence granted under the powers conferred by this Act; or*

*(c) the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or*

*(d) an electrical installation or work, as defined in section 2 of the Electricity Act 1992; or*

*(e) the provision of water systems; or*

*(f) providing or facilitating access or the supply of water to or the drainage of any other land not forming part of the reserve or for any other purpose connected with any such land*

6. Easements are required for QLDC services on QLDC administered recreation reserve.
7. Section 48(2) of The Reserves Act requires that easements be notified unless it can be shown that the easements will not have permanent effect on the reserve or the public's ability to enjoy the reserve.
8. As the placement of the services are underground they will not materially alter or permanently damage the reserve, or the rights of the public using the reserve.
9. James Clouston Reserve is Recreation Reserve and fronts the Lakeview site and is adjacent to Man Street. Recent earthworks have occurred as part of the Man Street upgrade which has reduced the width of the reserve and resulted in a number of tree removals. There are a number of mature trees remaining and the reserve affords sweeping views over Lake Whakatipu and the Remarkables. A mix of residential and commercial development is proposed immediately adjacent to the west of the reserve as part of the Lakeview development. This site has several protected trees on the boundary with the reserve. These will not be affected by the proposed easement area.
10. Lot 1 DP 524367 is Recreation Reserve, referred to in this report as Lakeview Recreation Reserve. It was part of the former campground and is currently undeveloped. Current plans for the site provide for a public plaza and a potential leased hot pools site. Draft plans for the plaza anticipate and accommodate the easement area. Large mature trees are located on this reserve, including several protected trees to the south of the reserve.
11. The proposed easements are not near a common boundary of any other neighbouring landowners that are not part of the Lakeview subdivision and development. Therefore, no consultation has been deemed necessary.
12. Under the Reserves Act, 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 an easement being lodged with LINZ.
13. 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.
14. Option 1 - To grant the easement for underground services.

*Advantages:*

- The easements and public infrastructure are necessary to support the Lakeview subdivision and wider area.
- The infrastructure will be installed in the most feasible and direct route to enable connections to existing reticulated services.
- The underground services and easement have been assessed as having minimal impact on public use of the reserves.

*Disadvantages:*

- The easements place an encumbrance on the reserve land, potentially constraining the use of the reserve for recreation infrastructure or planting of vegetation in future.

15. Option 2 - To decline the easement for underground services.

*Advantages:*

- There will be no potential encumbrances on the reserve land.

*Disadvantages:*

- Access to the underground services would not be protected, and this could have implications for future maintenance of the public infrastructure required for the Lakeview subdivision and wider area.

16. This report recommends **Option 1** for addressing the matter, as it will allow easements to be provided for the Lakeview subdivision to protect public infrastructure that will enable the Lakeview development to occur.

### Consultation Process | Hātepe Matapaki

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### Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

17. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves Council recreation reserves. The impact of the decision however is minor, as associated infrastructure is below ground and will not affect public enjoyment of the reserves.

18. The persons who are affected by or interested in this matter are the users of the recreation reserves.

### Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

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19. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10005 Ineffective planning for community services or facilities within the QLDC Risk Register. This risk has been assessed as having a high residual risk rating.

20. The approval of the recommended option will support the Council by allowing additional controls for this risk to be implemented. A perpetual property right contained in the reserve does carry risk to Council for any future development, and this risk needs to be highlighted when considering approving an easement. This is mitigated by locating the infrastructure underground in areas that will not affect the future use of the reserves.

### Financial Implications | Kā Riteka ā-Pūtea

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21. The cost of registering the easements will be met by the applicant.

### Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

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

- Council's Easement Policy, 2008
- Significance and Engagement Policy, 2021
- Parks and Open Spaces Strategy 2021

23. The recommended option is consistent with the principles set out in the named policies.

24. This matter is not included in the Ten-Year Plan/Annual Plan but has no effect upon it.

### Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

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25. Granting of an easement over reserve land requires the Council to follow the required process set out under the Reserves Act 1977.

### Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

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26. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. Approval of the report's recommendation will help meet the current and future needs of the community by enabling the Lakeview development to occur. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

27. The recommended option:

- Is consistent with the Council's plans and policies; and
- Would not significantly alter 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 | Kā Tāpirihaka

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A	Lakeview Easement Plan
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