

**Wānaka-Upper Clutha Community Board**

**23 May 2024**

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

**Department: Planning & Development**

**Title | Taitara: Licence to Occupy Road Reserve Tramore Street (LO230014)**

**Purpose of the Report | Te Take mō te Pūroko**

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The purpose of this report is to consider granting a Licence to Occupy Road Reserve to enable Highgate Roslyn Limited the owners of 94 Lismore Street, Wānaka to build a retaining wall to form part of the proposed pedestrian access for Lots 1 & 2 of 94 Lismore Street within the Tramore Street legal road reserve. The pedestrian access for Lots 1 & 2 will originate from future Lot 3 adjacent to the Lot 3 vehicle access.

**Recommendation | Kā Tūtohuka**

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That the Wānaka-Upper Clutha Community Board:

1. **Note** the contents of this report;
2. **Grant** a Licence to Occupy Tramore Street road reserve to Highgate Roslyn Limited to enable a retaining wall outside Lot 3 of 94 Lismore Street to allow Lots 1 & 2 pedestrian access subject to the following conditions:
  - a. The licence shall remain at Council’s pleasure.
  - b. It is the responsibility of the Applicant to ensure that all works on the road reserve comply with both the Building Act 2004, and the Resource Management Act 1991. Resource Consent and Building consents are to be obtained prior to works commencing, if required.
  - c. All works must comply with both a Traffic Management Plan (TMP) and Corridor Access Request (CAR). The TMP and CAR must be approved by Council engineers before any work commences on the road reserve.
  - d. All activities are to be undertaken in accordance with Worksafe New Zealand’s standards for the work environment.
  - e. Any works within the road reserve to be undertaken to the specification and approval of Council’s engineers.
  - f. All services including three waters, telephone, power and gas within the road reserve must be identified prior to any works being undertaken on the road reserve. There shall be no damage to Council infrastructure nor shall access to the road reserve by Council be fettered before, during, or after the works are completed. Council reserves the right to charge a reasonable rate for any damage done to infrastructure.

- g. Any damage as a result of the connection to be resolved to the satisfaction of Council engineers at the cost of the applicant.
- h. Structures and/or occupation must not compromise roading or services maintenance activities.
- i. Ongoing maintenance of the structures and/or occupation are to be the responsibility of the Licensee.
- j. The retaining wall is to be designed by a chartered professional engineer to accept full construction and vehicular traffic surcharge loading immediately adjacent/above the wall and to accommodate future development of the neighbouring access. Additionally, no parts of the wall shall bear directly on or near or provide any surcharge onto the Council 300mm diameter rising watermain within Tramore Street. A producer statement (PS1) is to be provided by the engineer with such works not to proceed until Queenstown Lakes District Council's (QLDC) engineers are satisfied with the design.
- k. A producer statement (PS4) is then to be provided to QLDC within 3 months of earthworks completion.
- l. The Licensee will be responsible for ongoing maintenance of the retaining structures along with any damage that may occur to the road reserve or the adjoining property as the result of the structures. Rectification of any damage is to occur within a timeframe deemed reasonable by the Licensor.
- m. The applicant registers a Covenant in Gross against the titles of the proposed future Lots 1, 2 & 3 of RM230156, to ensure the recommended terms and conditions of the Licence continue in perpetuity for all future owners of these properties, or until the License is forfeited at the request of QLDC.
- n. In the event the License to occupy is revoked in the future, the development lots are to remove the retaining wall and replace with battered slope arrangements.

**Prepared by:**



**Name:** Kim Anderson

**Title:** Licence to Occupy &  
Temporary Road Closures  
Officer

5 April 2024

**Approved by:**



**Name:** Tony Avery

**Title:** GM Property &  
Infrastructure

6 May 2024

## Context | Horopaki

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1. Highgate Roslyn Limited (herein referred to as the "the Applicant") own 94 Lismore Street, Wānaka, legally known as Lot 1 DP315584. They are currently seeking resource consent (RM230156) to subdivide Lot 1 DP315584 into 3 lots with residential units on each lot.
2. The applicant seeks a Licence to Occupy the road reserve for the purpose of installing a retaining wall that has a maximum height of 1m and will extend approximately 2.1m into Tramore Street road reserve. This retaining wall is proposed as part of the residential subdivision and development resource consent application for 94 Lismore Street (Lot 1 DP315584). The retaining wall is required to form the proposed pedestrian access for the proposed Lots 1 & 2. This access is adjacent to Lot 3's driveway and garage area.

## Analysis and Advice | Tatāritaka me kā Tohutohu

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3. Council's engineers have been consulted and have confirmed support for the proposal subject to the following;
  - a) Ensure the existing walkway access from Tramore Street to Lismore Street is un-obstructed.
4. 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.
5. Option 1 Council can grant the Licence to Occupy Road Reserve application subject to the conditions proposed above

### *Advantages:*

- The resource consent application for the proposed development and subdivision may proceed.

### *Disadvantages:*

- A part of the road reserve will be encumbered by a private retaining wall and pedestrian accessway.

6. Option 2 Council can decline the Licence the Occupy road reserve application.

### *Advantages:*

- The reserve will not be encumbered by private structures.

### *Disadvantages:*

- The applicant will need to consider alternative means to provide pedestrian access to their development while meeting Council's Engineering Code of Practice.

7. This report recommends **Option 1** for addressing the matter as the works can be undertaken and completed under terms and conditions deemed appropriate by Council's engineers.

## Consultation Process | Hātepe Matapaki

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

8. This matter is of low 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.
9. There are no persons, other than the applicants, identified who are adversely affected by or would be significantly interested in this matter.
10. Council engineers have been consulted about this application and their comments are contained within this report.

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

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11. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10021 Ineffective operations and maintenance of property or infrastructure assets within the QLDC Risk Register. This risk has been assessed as having a low residual risk rating.
12. The approval of the recommended option will support the Council by allowing retention of the risk at its current level. This shall be achieved by the agreeing the proposed conditions.

### Financial Implications | Kā Riteka ā-Pūtea

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13. The applicants have paid a fee for their application to be processed which includes the preparation of the licence document, if successful.
14. Should legal review of the licence be required, Council's legal costs will be recovered from the applicant.
15. The applicants are responsible for covering the cost of having the licence recorded against their title by a Covenant in Gross.

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

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16. The following Council policies, strategies and bylaws were considered:
  - a. **Significance and Engagement Policy 2021** – 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.
  - b. **Long Term Plan** – the consideration to grant or otherwise a Licence to Occupy is considered part of the Council's 'Regulatory Services' outlined in the Plan.
  - c. **Temporary Use of Public Space for Construction Purposes Policy (Adopted 2003)** – the policy addresses use of public space for temporary construction purposes.
17. The recommended option is consistent with the principles set out in the named policy/policies.

18. This matter is not included in the Long Term Plan/Annual Plan as the cost of the licence will be met by the applicant.

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

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19. 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 support economic wellbeing by allowing a development to proceed at no cost to the community.

20. 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.

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**Attachments | Kā Tāpirihaka**

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A	Letter from applicant's planner
B	Architectural Plan Set (edited with complete images available upon request)
C	Occupation Render
D	Measurements to underground services