

## 22. CHARTWELL RESERVE - EASEMENT APPLICATION

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Corporate Plan Output: Consents 9.4.10	

The purpose of this report is to enable the Board to consider an application by Balfour Taylor Limited, Registered Land Surveyors and Consultants, on behalf of G Hampton for a registered easement over Chartwell Reserve in which to lay a sewer and stormwater pipe from the subdivision of a property (lot 2 DP 67930) situated behind the reserve.

### CONTEXT

The Council has delegated the responsibility for making such a decision to Community Boards. The Council is able to grant easements across reserves under Section 48 of the Reserves Act 1977. Once the Board has made its decision, if it is favourable, the decision must be approved by the Minister of Conservation (at Area Officer level under delegated authority) before the easement can formally be put in place.

### RELEVANT CURRENT POLICY

Council policy requires that the applicant, if successful with their application, is to pay the Council a compensation payment as decided by independent valuation for the privilege of installing services across a park or reserve in the Christchurch City Council area, where the service is not benefiting a structure built upon the reserve. A second relevant policy is that the applicant must pay all the Council's costs (investigating, reporting etc.) in relation to the creation of the easement.

### DESCRIPTION OF THE PROPOSAL

Chartwell Reserve is a local park in Chartwell Street, Burwood upon which is situated greenspace and a playground. Chartwell Reserve is of 4,634m<sup>2</sup> in area, having a legal description of Lot 1, Deposit Plan 41082 (Certificate of Title CB29F/1009) being held by the Council as a reserve and therefore subject to the requirements of the Reserves Act 1977.

The natural fall of the applicant's land which is to be subdivided is from Burwood Road to Chartwell Street. The rear of the site is 80mm lower than Burwood Road, which prevents stormwater being discharged to Burwood Road. Chartwell Street is 1.05m lower than the rear of the applicant's property, therefore the applicant wishes to lay the stormwater services across the reserve to discharge into the existing services in Chartwell Street. Although the sewer could drain to Burwood Road, the applicant believes the best solution is for this work to follow the stormwater line to Chartwell Street.

The easement will be approximately 3m wide as shown on the attached plan, and cover approximately 193m<sup>2</sup> of the reserve. The pipelines will be laid at a depth of just over 1m and therefore should not interfere with the existing infrastructure upon the reserve. Although the proposed pipelines cut through the playground area, this will only be a temporary disruption to the use of this equipment. The proposed alignment has been chosen to avoid other landscape features within the reserve.

The applicant will create the easement as an easement in gross, which transfers ownership of the sewer and stormwater pipes to the Council, when completed. This enables public use of the pipes.

The Council has previously granted another easement across Chartwell Street Reserve for a subdivision north of the applicant's property in 1993.

### ISSUES FOR CONSIDERATION

The proposed easement alignment will cut through the playground. However, after discussing the proposal with the applicant, officers believe that the public use of the playground will only be reduced for approximately one week, possibly less.

## RESULTS OF CONSULTATION

Under Section 48(2) of the Reserves Act 1977, the Council is required to give public notice in accordance with Section 119 of the Act specifying the right of way or easement intended to be granted, giving full consideration in accordance with Section 120 of the Act to all objections and submissions received in respect of the proposal. Section 48(3) of the Act which is reproduced below for members' information, allows an exemption to be made to the advertising requirement where the reserve is not permanently damaged, altered, or the public's rights are not affected.

*“(3) Subsection (2) of this section shall not apply in any case where -*

- (a) The reserve is vested in an administering body and is not likely to be materially altered or permanently damaged; and*
- (b) The rights of the public in respect of the reserve are not likely to be permanently affected ... by the establishment and lawful exercise of the right of way or other easement.”*

This proposed easement clearly falls within the bounds outlined in Section 48(3) and therefore public advertising is not required, only the approval of Council. Easements of this type, which fall within the bounds of Section 48(3) have never been publicly advertised in the past.

## CONCLUSION

The applicant's proposal will only cause temporary disruption to the public's use of part of the park, having no effect upon the public's enjoyment of the park in the future. If the application is granted, the approval will be subject to the applicant complying with the conditions as outlined below:

1. Approval is to be obtained from the Minister of Conservation.
2. The area covered by the easement is to be available for public use at all times.
3. Balfour Taylor Limited acting on behalf of G Hampton is to obtain all necessary Resource and Building Consents before any development commences upon the site.
4. The easement terms are to be negotiated by the Property Manager in consultation with the Parks and Waterways Policy and Leasing Administrator.
5. The easement construction area is to be maintained by Balfour Taylor Limited acting on behalf of G Hampton and their contractors in a safe and tidy condition at all times.
6. Restoration of the sealed footpath is to be undertaken in accordance with the conditions outlined in the Christchurch City Council information sheets entitled "Trench Restoration for Paved Areas".
7. All costs associated with processing the application, resulting development, and subsequent maintenance of the services within the easement are to be paid for by Balfour Taylor Limited acting for G Hampton. Costs for the maintenance of the services are to cease when they are formally transferred to Council ownership.
8. Before any tenders are let or work commences upon the site, discussions are to be held with the Parks and Waterways Unit Manager's designate, the Parks and Waterways Area Advocate (Shirley Service Centre), to ascertain the Council's requirements through the development phase of the construction of the facility.
9. A bond of \$2,000 is to be paid by Balfour Taylor Limited acting on behalf of G Hampton or the successful principal contractor to the Christchurch City Council before work commences upon the site. The bond less any expenses incurred by the Council is to be refunded to the payee upon completion of the work.
10. A compensation payment, which is decided by independent valuation, is to be made to the Council by the applicant for the granting of the easement right.
11. The easement document is to record that all pipes must be laid underground through the reserve.

12. A survey plan as built must be lodged with the Christchurch City Council - Parks and Waterways Policy and Leasing Administrator within three months of the work being completed to enable the easement to be formally registered at the applicant's expense.

**Recommendation:** That the Board grant a registered easement over approximately 193m<sup>2</sup> of Chartwell Street Reserve in favour of Lots 1 to 5 of subdivided Lot 2 DP 67940 in which to lay sewer and stormwater pipes pursuant to Section 48(1)(f) of the Reserves Act 1977 subject to the 12 conditions outlined above.

**Chairperson's Recommendation:** That the abovementioned recommendation be adopted.