

**3. EASEMENT – LAYING OF 200 MM WATER MAIN IN SIOUX RESERVE
AWATEA GARDENS - STAGE ONE- ENTERPRISE HOMES LIMITED DEVELOPMENT**

Officer responsible Parks and Waterways Manager	Author Tony Hallams, Policy and Leasing Officer, DDI 371-1320
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Purpose of this Report

The purpose of this report is to recommend to the Council that they grant an easement, in favour of the Council, over part of Lot 103 DP 304554, known as Sioux Reserve, which is 488 square metres in area, in which to lay a 200 millimetre diameter water main, which is required by City Water & Waste to strengthen the high pressure water supply in the area. The details of the proposed easement are attached.

Relevant Current Policy

The Community Board has the delegated authority from Council (8 November 2001) to make the decision on behalf of the Council whether to grant the easement or not. This decision can be made by a sub-committee of the Council in terms of the Reserves Act 1977 requirements.

Description Of The Proposal

The easement is required to enable the developer to lay a 200-millimetre water main across the reserve to connect an existing water main in stage one of the Awatea Gardens subdivision to another existing water main in Sioux Avenue. Eliot Sinclair and Partners Limited, acting on behalf of Enterprise Homes Limited, (the applicant) have indicated that the Council's Water and Waste Unit requires the main to be installed to enable pipe pressure to be maintained in the system when new water mains are laid in the future stages of the subdivision. The Unit is reluctant to put a water main through private land because of the difficulty of undertaking repairs in the future upon private property, should they be required. There is already a 2 metre wide easement through the reserve in which a sewer rising main is laid. A sewer rising main is a pressured main laid between one pumping station and another. If a break occurs, because of the risk of contamination, both services must have a minimum separation distance of 1 metre. The position of the sewer rising main in the easement precludes the required minimum separation distance being possible, hence this application.

A copy of part of Drawing number 207187 compiled by Eliot Sinclair and Partners Limited detailing the proposal is attached.

Issues For Consideration

This part of Sioux Reserve is Lot 1 Deposit Plan 304554 being 488 square metres in area, being held by the Council in certificate of title 18321, as a recreational reserve. The applicant, as part of the reserve contribution process vested the reserve in the Council at the time of constructing stage one of the subdivision. The Council is requiring the linking water main be installed as part of the future stages of the subdivision, and therefore Council officers consider that the Council should not seek compensation for the small strip of land sought. Officers are of the view that the proposed easement route will have little impact on the reserve.

The water main will revert to Council ownership once it is in service, after the initial maintenance period has expired. The applicant will be required to pay all costs associated with the establishment of the easement, which will include Council officer's time spent preparing reports, attending Council meetings, preparing legal documentation, together with the fees of outside agencies required to complete the process, which will include the Minister of Conservation's approval fee, survey fees, and Land Information New Zealand documentation fees.

Part 1 of section 48 of the Reserves Act 1977 allows for the granting of rights of way and other easements across reserves. Part 2 of this section requires that before granting the easement that the Council publicly advertised its intention to grant the easement. Part 3 of this section allows these advertising provisions to be dispensed with, if the proposed easement is not likely to 'materially alter or permanently damage the reserve, and the rights of the public are not likely to be permanently affected'. It is considered that both these tests will be satisfied, because no structures will be built above the ground, and therefore the rights of the public will not be affected by the proposal. Public advertising will therefore not be required.

The applicant has agreed to supply the Council with survey plans of the easement within three months of completing the work, so the easement can be registered as required by the Reserves Act 1977.

Part 6 of section 48 of the Reserves Act 1977 allows the Council to grant an easement unto itself as the administering body, and enter into covenants and agreements in respect to the transaction in one capacity so as to bind or benefit the administering body in another capacity. There are two reasons why the easement is being requested. If at some future date it is decided, that the water supply function of the Council is to be privatised, then the ownership of the utility service is able to be legally transferred to the new owners. The other reason is to ensure that the easement, and the reason for the easement is properly registered upon the certificate of title to protect both parties, in this case the two Units of the Council.

Conclusion

Officers of the Parks & Waterways Unit are comfortable with the application, and therefore recommend that it be approved subject to the applicant complying with conditions 1 to 8 outlined below.

1. The approval of the Minister of Conservation first being obtained.
2. The easement terms being negotiated by the Property Manager, in consultation with the Parks and Waterways Policy and Leasing Administrator.
3. Before work commences upon the site, the applicant is to be responsible for locating all the existing services that are located within the park, and ensure they are not damaged by the contractor(s) .
4. The easement construction area being maintained by the applicant an/or their contractors in a safe and tidy condition at all times.
5. Before any tenders are let or work commences on the site, discussions are to be held with the Parks and Waterways Area Advocate, Sockburn Service Centre, to ascertain the Council's requirements through the construction phase of laying the pipe.
6. A bond of \$2000 is to be paid by the applicant, to the Christchurch City Council via the Parks and Waterways Area Advocate, Sockburn Service Centre, before work commences upon the site. This bond, less any expenses incurred by the Council, is to be refunded to the payee upon the completion of the work, and lodgement of the survey plan as built with the Parks & Waterways Policy & Leasing Administrator.
7. The applicant providing the Council (Parks & Waterways Policy & Leasing Administrator), within three months of completion of the work, a surveyed easement plan upon which the easement and high-pressure water main's location within the easement as built within the reserve is shown.
8. The applicant agreeing to pay all the Council, and other necessary agent's costs, enabling the easement to be put in place.

Recommendation: That the Council resolve to grant an registered easement unto itself, as provided for in Section 48 (6) of the Reserves Act 1977 over approximately 35.m² (the easement being approximately 1m wide by 35.m long), of Lot 1 DP 304554, known as Sioux Reserve as shown upon plan 207187 prepared by Eliot Sinclair & Partners on behalf of Enterprise Homes Limited (the applicant), subject to conditions, 1 to 8 outlined above being complied with.

Chairman's

Recommendation: That the officer's recommendation be adopted.