

**11. EASEMENT OVER COUNCIL RESERVE IN CLEARWATER
SUBDIVISION, JOHNS ROAD AND RIGHT OF WAY EASEMENT IN
FAVOUR OF COUNCIL**

Officer responsible Legal Services Manager	Author Karilyn Shutt
Corporate Plan Output:	

The purpose of this report is to request:

- (a) the Council's consent under Section 48 of the Reserves Act 1977 to the creation of easements over part of Lots 110 and 111 on the attached Plan 83358; and
- (b) the Council's consent to receive a right of way easement over part of Clearwater Resort Limited's land.

The request for the creation of the above easements has arisen as a consequence of Clearwater Resort Limited's subdivision between Johns Road and Coutts Island Road.

EASEMENT OVER COUNCIL RESERVES

Lots 110 and 111 will vest in the Council as part of the Clearwater subdivision.

Lot 110 is the site of a sewer pumping facility which will be taken over and operated by the Council once the pump is operational. Lot 110 will vest in the Council for that purpose, as a local purpose (drainage) reserve.

Lot 111 is being vested in the Council as a recreation reserve in partial payment of Clearwater Resort Limited's reserve contribution for the Clearwater subdivision.

It is proposed that a right of way in favour of Environment Canterbury be granted in respect of Parcel D on Lot 111, and a right to convey electric power in favour of Orion New Zealand Limited over Parcel C on Lot 110.

The Subdivisions Unit advise that:

- (a) Environment Canterbury requires the right of way over Lot 110 to connect pieces of land owned by it; and
- (b) the right to convey electric power over Lot 111 is necessary for the Council's pump station and provides the most appropriate/direct route for the electricity easement.

Officers therefore recommend that:

- (a) A right of way in gross over Parcel D on Plan 83358 be granted in favour of Environment Canterbury; and

- (b) A right to convey electric power in gross over Parcel C on Plan 83358 be granted in favour of Orion New Zealand Limited, on the basis that all services must be laid underground.

The Council has previously not required compensation for easements granted over reserves when the creation of those easements is as a consequence of land being vested in Council as part of a subdivision. Officers consider that it would be inappropriate to require compensation on this occasion.

The Minister of Conservation's consent will also be required for the creation of the two easements. This will be obtained prior to the easements being registered in the Land Transfer Office.

RIGHT OF WAY EASEMENT IN FAVOUR OF COUNCIL

As mentioned above, Lot 110 will vest in the Council as local purpose (drainage) reserve. In order to gain access to that Lot 110, Clearwater Resort Limited has agreed that it will grant Council a right of way over Parcel F of Clearwater's Lot 105.

The proposed terms and conditions of that right of way are reasonably standard, except that the Council will not be required to contribute towards the cost of formation, maintenance or repair of the right of way unless the right of way is directly damaged by Council's use.

- Recommendation:**
1. That the Council consent, pursuant to section 48 of the Reserves Act 1997 to the creation of:
 - (a) A registered right of way in gross over Parcel D on Plan 83358 in favour of Environment Canterbury; and
 - (b) A registered right to convey electric power in gross over Parcel C on Plan 83358 in favour of Orion New Zealand Limited.
 2. That the abovementioned right to convey electric power in gross record that all services must be laid underground.
 3. That the Council resolve not to publicly notify the creation of the easements as:
 - (a) The reserves (Lots 110 and 111 on the attached Plan 83358) are not likely to be materially altered or permanently damaged by the creation of the easements; and

- (b) The rights of the public in respect of the reserves are not likely to be permanently affected by the creation of the easements.
- 4. That the Council resolve to receive a right of way over Parcel F on Plan 83358 upon the terms referred to in the above report.