

7. BISHOPDALE MALL RESERVE – STORM-WATER EASEMENTS

General Manager responsible:	General Manager Jane Parfitt, City Environment
Officer responsible:	Michael Aitken, Greenspace Manager
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PURPOSE OF REPORT

1. The purpose of this report is to tidy up actions that have already occurred unbeknown to staff, that being the shifting of Council owned storm-water pipes on Lot 2 DP 83749 contained in certificate of title CB48C/383 owned by the Young Men's Christian Association of Christchurch Charitable Trust. This action requires the Council to agree to the surrender of the existing easements granted in the Council's favour, and the granting of new storm-water easements in gross across this land, over the recently laid pipes. The reason the pipelines were moved was because of the requirement that these pipes not be located under the new buildings being presently built upon Lot 2 for the YMCA.
2. The above action will require a new storm-water pipeline to be laid through the adjacent Council vested Local Purpose (Community Centre) Reserve, Lot 2 DP 26629, held in gazette notice 759197, page 5763 in NZ Gazette 1989. This action will require the Council to grant an easement unto itself in accordance with the requirements of section 48 (6) of the Reserves Act 1977.

EXECUTIVE SUMMARY

3. Officers are recommending that the Council agree to the surrendering of the original storm-water easements in gross across the YMCA owned land, and agree to accepting the new storm-water easements in gross across the same land that are to be granted in favour of the Council. See **attached** plan.
4. Officers are recommending that the Council also approve the granting of a new storm-water easement in gross unto itself as required by section 48 (6) of the Reserves Act 1977 through the adjacent reserve because the granting of the new easements as outlined in 3 above over the relocated pipes through the adjacent YMCA land necessitates the putting in place of a new easement over the new alignment of the pipe through the reserve, required to connect to the existing service outside the reserve.
5. The costs for survey, surrendering the old easements, and registering the new easements on the YMCA's, and Council's titles will be the responsibility of the YMCA.
6. Officers are recommending that the Council agree to waive the charging of a one off compensatory payment for the privilege of having the easement encumbrance placed on the Council's title in accordance with Council policy (27/9/01), and not charge for officers' time involved in processing the application in accordance with Council policy (12/7/01), because this would defeat the purpose of the tangible support that the Council has given to this project.

FINANCIAL AND LEGAL CONSIDERATIONS

7. Bishopdale Mall Reserve is made up of two parcels of land, these being Lot 2 DP 26629 a Local Purpose (Community Purposes) Reserve (NZ Gazette 1989 page 5763), which is of 2782 square metres in area, and Lot 10 DP 42896, a Local Purpose (Community Centre) Reserve, of 1961 square metres in area, contained in certificate of title CB20F/1396, both reserves being vested in the Council. See **attached** plan.
8. The Board has delegated authority from the Council (8 November 2001) to make the decision on behalf of Council whether to grant an easement or not over reserve land, which is vested in the Council. This decision can be made by a sub-committee of Council in terms of the Reserves Act 1977 requirements.
9. Presently however there are no delegations from the Council with respect to the approval of the surrender or acceptance of easements in the Council's favour across private land. This issue is in the process of being addressed at present. It will be necessary therefore for the Board to make a recommendation to Council concerning the easements in favour of the Council across the YMCA land.

10. The storm-water pipe, which was laid in the proposed easement before formal application was made to the Council for the easement, drains Bishopdale Park, and some of the residential areas further west. The Council officers informed the YMCA's agents, (the architect), that there was a need to apply to the Council for agreement to surrender, and create new easements for the realignment of the storm-water pipe through YMCA's title, and for a new easement through the adjacent reserve. Officers are satisfied that the position of the proposed storm-water easement in gross through the reserve, will have minimal effect upon the reserve, which has now been developed for car-parking to service the YMCA Recreation Centre City Plan car-parking requirements.
11. There was no easement over the previous route of the storm-water pipeline through the reserve, because at the time it was laid the land was not vested as a reserve, this action not occurring until 3 November 1989. The Council is only able to grant an easement unto itself over reserve land.
12. Officers are recommending that the normal one compensation payment for allowing the encumbrance to be placed upon the Council's title, as required by Council policy (27/9/01), and the Council officers' time involved in processing this application as required by Council policy (12/7/01) not be requested/charged in this particular case because of the partnership that exists between the YMCA, and the Council, in relation to the YMCA's recreation centre development at Bishopdale. The Council has made a substantial grant towards the development, and endorsed the use of part of the reserve land for car-parking to satisfy city plan car-parking requirements for the development. The requirement to relocate the storm-water pipe to enable the YMCA to optimise the development of their site is a charge against the project, and therefore to require a one off compensatory payment to be made, and charge for officers time to process this application, would defeat the original purpose of the Council grant made to assist in the realisation of this project.

STAFF RECOMMENDATIONS

1. Officers recommend that the Board recommend to the Council:
 - a) Council resolve to the surrender of the stormwater easements in gross over Lot 2 DP 83749 contained in certificate of title CB48C/383 owned by the Young Men's Christian Association of Christchurch Charitable Trust, shown as G, H, I, J, K, M, on the Existing Easements Plan on the attached plan 260371, these easements being of approximately 250 square metres in area.
 - b) Council resolve to approve the new storm-water easements in gross over Lot 2 DP 83749 contained in certificate of title CB48C/383 owned by the Young Men's Christian Association of Christchurch Charitable Trust, shown as CP, CM, CG, CH, CK, on the Proposed Easements Plan on the attached plan 260371, these easements being of approximately 168 square metres in area subject to survey.
2. Officers recommend that the Board under delegated authority from the Council:
 - a) Resolve to grant a storm-water easement in gross unto itself in accordance with the requirements of section 48 (6) of the Reserves Act 1977 over the alignment of the storm-water pipe already laid through Lot 2 DP 26692, a Local Purpose (Community Buildings Reserve) vested in the Council (New Zealand Gazette 1989 page 5763), shown as CE, and CF on the Proposed Easements Plan on the attached plan 260371, this easement being of approximately 168 square metres in area subject to survey.

The above resolutions be subject to the following conditions:

- i) The consent of the Minister of Conservation being obtained in the case of 3 above.
- ii) The easement terms being negotiated by the Corporate Support Unit Manager, in consultation with the Greenspace Policy and Leasing Administrator.
- iii) The easement construction area being maintained by the YMCA, and their contractors in a safe and tidy condition at all times.
- iv) All costs associated with the surrendering, survey and registration of the easements on the YMCAs, and Councils titles, being the responsibility of the YMCA.

- v) The applicant is to provide the Council, within three months of completion of the work, a surveyed easement plan on which the easements as shown on drawing 260371 are shown.
- vi) The Council resolve not to charge a one off compensatory payment for the privilege of having the easement encumbrance placed on the Council's title in accordance with Council policy (27/9/01), and not charge for officers' time involved in processing the application in accordance with Council policy (12/7/01), because this would defeat the purpose of the tangible support that the Council has given to this project.

CHAIRMAN'S RECOMMENDATION

That the staff recommendations be adopted.

OPTIONS

- 13. There are no other options for the placement of the easement on the reserve, the storm-water pipe already being placed within the proposed easements corridor, which is the only route available to join the relocated pipe-work to the existing storm-water network.