

5. BISHOPDALE MALL RESERVE – ORION CABLE EASEMENT

General Manager responsible:	General Manager Jane Parfitt, City Environment
Officer responsible:	Michael Aitkin, Greenspace Manager
Author:	John Allen, Policy & Leasing Administrator, DDI 941-8699

PURPOSE OF REPORT

1. The purpose of this report is to enable the Board to consider an application lodged on behalf of Orion NZ Co Ltd for an easement in gross over approximately 142 square metres, (the easement being approximately 2 metres wide), along the west side of Bishopdale Mall Reserve which is vested in the Council, in which to relocate a 11 KVA cable from the neighbouring YMCA owned property, see **attached** easement drawing 260371. The easement is required, because the 11 KVA cable which was located within an easement on the adjacent YMCA property, severely limits the options for the sighting of the new YMCA fitness centre on the site.

EXECUTIVE SUMMARY

2. Officers are recommending that the easement application be granted. The costs for survey, and registering the new easement on the Council's title will be the responsibility of Orion NZ Company Limited. Officers are also recommending that the Council policies for the charging of staff time to process the application, and to charge a one off compensation fee for the privilege of putting the encumbrance (easement) upon the Council's title, be waived because of the tangible Council support that has been given to the project.

FINANCIAL AND LEGAL CONSIDERATIONS

3. 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.
4. The Community Board has delegated authority from Council (8 November 2001) to make the decision on behalf of Council whether to grant the easement or not. This decision can be made by a sub-committee of Council in terms of the Reserves Act 1977 requirements.
5. The cable was laid in the proposed easement before formal application was made to the Council for the easement. Discussions were held about the proposed cable's alignment with the author of this report during discussions about the retention of some of the trees on the reserve in relation to the proposed (at that time) car park layout. At the time the YMCA's agents, (the architect), were verbally made aware of the need to apply to the Council for an easement. Officers are satisfied that the position of the proposed easement along the western boundary of the reserve, as discussed earlier at the above mentioned discussions will not have an affect upon possible development options for the reserve in the future, if at any time it is not required for car-parking.
6. 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 Council officers time 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 cable 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 RECOMMENDATION

Officers recommend that the Council grant a registered easement in gross to Orion in accordance with section 48 (1) (d) of the Reserves Act 1977, over approximately 105 square metres of Lot 2 DP 26629, a Local Purpose (Community Buildings) Reserve, and approximately 38 square metres of Lot 10 DP 42896, a Local Purpose (Community Centre) Reserve, as shown in the **attached** drawing number 260371, subject to the following conditions:

1. The consent of the Minister of Conservation being obtained.
2. The easement terms being negotiated by the Corporate Support Unit Manager, in consultation with the Greenspace Policy and Leasing Administrator.
3. The easement construction area being maintained by Orion NZ Limited, and their contractors in a safe and tidy condition at all times.
5. All costs associated with the survey and registration of the easements on the Councils title, being the responsibility of the YMCA.
6. 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.
7. 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 to process 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 above recommendation be adopted.

OPTIONS

8. There are no better options for the placement of the easement on the reserve, the 11 KVA cable already being placed within the proposed easement corridor, the position of which was in accordance with the outcome of onsite discussions held with the author of this report on an unrelated matter.