

7. PROPOSAL BY LAKE BRYNDWR DEVELOPMENTS LIMITED FOR A WATER SUPPLY EASEMENT ACROSS LOCAL PURPOSE UTILITY RESERVE LOT 15 DP 305999, BEING PART OF NEPAL RESERVE

General Manager responsible:	Jane Parfitt City Environment Manager, 941-8656
Officer responsible:	Transport and Greenspace Manager Michael Aitken
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PURPOSE OF REPORT

1. The purpose of this report is to seek the Board's approval to an application made by Lake Bryndwr Developments Limited, to enable the Council to convey water in gross in a 200 millimetre uPVC pipe across Nepal Reserve to serve an intended subdivision development by Lake Bryndwr Developments Limited at 435 Wairakei Road. A diagram of the intended pipeline is detailed in **Attachment 1**.

EXECUTIVE SUMMARY

2. Approval of the proposal by the applicant Lake Bryndwr Developments is necessary to enable a new subdivision development at 435 Wairakei Road to be supplied with water by the Council's Water and Waste Unit as part of an intended ring main.

FINANCIAL AND LEGAL CONSIDERATIONS

3. The Board has the delegated authority from the Council (as at 2 May 2006) to make the decision whether to grant the easement or not.
4. The part of Nepal Reserve over which the pipeline easement is to be created is currently held as recreational reserve subject to the Reserves Act 1977. The reserve is currently undeveloped, having previously been used as a quarry. Installation of the pipeline will be carried out concurrently with works by the Council and Lake Bryndwr Developments Limited for the creation of a storm water basin and subsequent development of the reserve for public use. The storm water basin is being jointly developed by Lake Bryndwr Developments Limited and the Council's Transport and Greenspace Unit. The developer is responsible for the costs of those parts of the basin that are required for the subdivision. The Council is undertaking additional work to enlarge the basin to also provide for other land outside the new subdivision. The proposed water pipeline is to be installed by the developer at their cost. The applicant is seeking an easement 2 metres wide and approximately 52 metres in length, including a 5 metre offset as part of the overall length. Council staff are of the view that the proposed easement route will have little impact on the reserve.
5. The proposed pipeline easement will be a right to convey water in gross in favour of the Council as administering body under Section 48(6) of the Reserves Act 1977.
6. Section 48(6) states that the rights of way and other easements may be granted under this section to any person, including, notwithstanding any rule of law to the contrary, the administering body in which the reserve is vested, and, where the right of way or other easement is granted to the administering body, covenants and agreements in respect of any transaction may be entered into by the administering body in the one capacity so as to bind or benefit the administering body in the other capacity as fully and effectually as if the administering body was a separate person in each capacity.
7. The easement will be a 2 metre wide centreline easement centred on the pipe location. Because the intended pipeline is to be located underground the reserve will not be visually affected, and public notification of the proposal will not be necessary as required under Section 48(2) of the Reserves Act 1977. If the Board approves the proposal the Council's Corporate Support Unit Property Consultancy Team will endeavour to obtain the consent of the Department of Conservation.
8. The applicant shall pay all costs associated with the establishment of the easement, which will include Council staff 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. The applicant will pay a compensation payment for the privilege of an easement being created within Lot 15 DP 305999.
9. Survey plans of the easement shall be provided by Bryndwr Developments Limited to the Council's Corporate Support Unit within three months of granting of the easement, so that the easement can be registered by the Council as required by the Reserves Act 1977.

STAFF RECOMMENDATIONS

That the Board resolve that the Council grant unto itself a registered easement as provided for under Section 48(6) of the Reserves Act 1977, over approximately 52 metre, (the easement being 2 metres wide by approximately 52 metre long), of Section 1 Survey Plan 19891, as shown in the attachment subject to:

1. The applicant, Lake Bryndwr Developments, submit a survey plan of the proposed easement to the Council's Corporate Support Unit within three months of the granting of the easement.
2. The consent of the Minister of Conservation is obtained by the Council on the applicant's behalf.
3. That any work that is undertaken is in compliance with the subdivision consent which has been granted by the Council to Clark Land Surveyors Limited.
4. That before work commences on the site the applicant is responsible for locating any existing services in the reserve, if applicable, and ensuring that are not damaged by contractors.
5. The easement construction area being maintained by the applicant and their contractors in a safe and tidy condition at all times.
6. A bond of \$2000 to be paid by the applicant to the Council via the Transport and Greenspace Unit Contract Manager located at the Fendalton Service Centre, before work commences on the site. This bond, less any expenses incurred by the Council, is to be refunded to the payee upon completion of the work and lodgement of the survey plan as built with the Corporate Support Unit Policy and Leasing Officer.
7. The applicant pay compensation for the benefit and property rights arriving from this easement. With the amount of compensation assessed by an independent registered valuer appointed by the Council.

BACKGROUND

10. The Council's Corporate Support Unit has received an application from Lake Bryndwr Developments Limited to install a 200 millimetre uPVC pipeline to convey water from an existing Council water main in Abros Place to the Lake Bryndwr Developments Subdivision at 435 Wairakei Road. The pipe is necessary to complete a ring main being constructed from services in Wairakei Road. The cost of constructing the pipeline will be met by Lake Bryndwr Developments Limited as part of works associated with the development of the subdivision. The pipeline will become a Council asset following completion. The applicant has indicated there is no alternative location for the pipeline as the subdivision site has no legal frontage to Abros Place, and that there is no adverse environmental effects on Nepal Reserve because the Lake Bryndwr Developments and the Council are jointly developing a former quarry into a storm water retention basin and reserve for public use.
11. The applicant has agreed to pay all costs associated with the establishment of the easement, which will include Council staff time spent preparing reports, attending council meetings, preparing legal documentation, together with the fees of outside agencies required to complete the process. These will include the Minister of Conservation's approval fee, survey fees, and the Land Information New Zealand documentation fees.

OPTIONS

12. The applicant Bryndwr Developments Limited has indicated that there is no alternative location for the pipeline as the subdivision site has no legal frontage to Abros Place.