

7. ERICA RESERVE – GRANT OF A SEWER EASEMENT

General Manager responsible:	General Manager, City Environment Group, DDI 941-8608
Officer responsible:	Unit Manager Transport and Greenspace
Author:	Lewis Burn, Property Consultant

PURPOSE OF REPORT

1. The purpose of this report is to obtain the approval of the Shirley/Papanui Community Board under the delegated authority of the Council to grant an easement in gross in favour of the Council to convey waste water in Erica Reserve at 88 Grants Road.

EXECUTIVE SUMMARY

2. The residential properties at 84 and 86 Grants road are presently in the process of being demolished and the land subdivided into three lots. As part of the drainage reticulation layout there is a need to reroute the Council owned sewer pipe work to the northern boundary of Lot 3 - refer approved engineering plan 100235 C1.1 **attached**.
3. This application has given rise to the need to formalise the Council's existing pipe work through the reserve to the sewer main in Grants Road.
4. The applicant, Powell Fenwick is the consultant engineer that has prepared the drainage specifications the layout for which has been accepted by City Water and Waste. Greenspace support the application subject to the conditions as outlined in the staff recommendation. It will be noted on the approved engineering drawing that the pipe trench from the adjacent property to the new manhole in the reserve is to be hand dug to ensure that any damage to adjacent cabbage trees is minimised. Note it has been agreed with the applicant that this trench will be narrower (250 millimetre) than the shown on the engineering plan **attached**.
5. Erica Reserve at 88 Grants Road, being Lot 6 DP 13309, 0.2807 hectare, CT 531/5 (a neighbourhood playground) is a recreation reserve vested in the Christchurch City Council. The drainage work proposed is at the northern end of the reserve and not in the vicinity of the children's play equipment.

FINANCIAL IMPLICATIONS

4. There are no financial implications for Council apart from administration costs. The applicant is to meet all costs of the work and establishing the easement as proposed. This report is proposing that in this situation, no one off compensation payment for the easement right (which also benefits other residential properties on grants road) be sought from the applicant. This is because the proposed work will reduce the overall area of the 2 metre wide easement required (approximately 92 square metres) over the existing and rerouted grey water pipes in the reserve.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

5. N/A.

LEGAL CONSIDERATIONS

6. The Council with the consent of the Minister of Conservation has the power to grant or decline easements over reserves under Section 48 of the Reserves Act 1977. Section 48 (3) of that Act provides that the public notification requirement shall not apply where:
 - (a) The reserve is vested in an administering body and is not likely to be materially altered or permanently damaged; and
 - (b) The rights of the public in respect of the reserve are not likely to be permanently affected by the establishment and lawful exercise of the right of way or other easement.

Both criteria apply to the easement subject of this application as the work will only involve a minor realignment of a lateral from the adjoining property to an existing underground sewer pipe in the reserve.

7. The Shirley/Papanui Community Board has the delegated authority of Council to approve the granting of rights of way and other easements over park and reserve land under Section 48 of the Reserves Act 1977.
8. The consent of the Minister of Conservation has been delegated to Council as the administering body where the activity is an existing use and the effects of the use will be the same or similar in character, intensity and scale. The Board may exercise this delegation

Have you considered the legal implications of the issue under consideration?

7. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. N/A.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

9. N/A.

ALIGNMENT WITH STRATEGIES

10. N/A.

Do the recommendations align with the Council's strategies?

11. N/A.

CONSULTATION FULFILMENT

12. Notification under the provisions of the Reserves Act can be waived as the service is underground – refer paragraph 6. There are no other statutory notifications necessary.

STAFF RECOMMENDATION

It is recommended that the Shirley/Papanui Community Board acting under the delegated authority of the Council:

- (a) Subject to conditions 2-4 below, grant an easement in gross pursuant to Section 48 (1) (f) and (6) of the Reserves Act 1977 in favour of the Christchurch City Council as the administering body over Erica Reserve in accordance with engineering plan 100235 C1.1 **attached**.
- (b) Exercise the delegation from the Minister of Conservation to consent to the easement and waive the requirement to publicly notify the proposed easement:
 - (i) The easement construction area being maintained by the applicant and their contractors in a safe and tidy condition at all times;
 - (ii) All costs associated with the survey and registration of the easement on the Councils title, being paid for by the applicant;
 - (iii) All the services are to be placed underground within the easement corridor;
 - (iv) The applicant is to provide the Council, within three months of completion of the work, a surveyed easement plan on which the new easement is shown;
 - (v) That the applicant not pay 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), because the proposed work will reduce the area of the easement required to be put over the reduced grey water pipes through the reserve, these pipes not being covered by an easement at present;
 - (vi) The applicant to pay a \$2,000 bond to the Council via the Greenspace Contract Manager, Fendalton Service Centre, and sign a temporary access licence before any construction work commences on the site. The bond less any expenses incurred by the Council will

be refunded to the payee upon completion of the development to a standard acceptable to the Transport & Greenspace Manager or his nominee;

- (vii) The trench from the adjacent property boundary through to the new manhole on the reserve is to be hand dug with a sharp spade, being 250 millimetre wide to ensure that damage to the roots of the adjacent trees is minimised;
- (c) That the Corporate Support Manager in consultation with the Transport and Greenspace Manager or their designates be authorised to set and conclude the conditions of the easement agreement.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be adopted.