

9. EASEMENT OVER 78 RUSHMORE DRIVE BELFAST

General Manager responsible:	General Manager, City Environment, DDI 941-8608
Officer responsible:	Manager, Transport and Greenspace
Author	Bill Morgan, Property Consultant

PURPOSE OF REPORT

1. The purpose of the report is to seek the approval of the Board to a right to drain sewage and convey water in gross through a Local Purpose Utility Reserve running between Rushmore Drive and the Main North Road Belfast.

EXECUTIVE SUMMARY

2. At the time Horncastle Homes developed its Rushmore Drive subdivision it set apart Lot 28 DP 383777, by way of reserve contribution, as a Utility Reserve to provide a walkway to the Main North Road. The reserve subsequently vested in the Council free of all encumbrances.
3. The Council's sewer and water lines servicing the subdivision run through the reserve from Rushmore Drive and connect with the mains in the Main North Road. Although easements in gross have been provided on the subdivision plan to protect the services they have not been created as required under Section 48 of the Reserves Act. The creation of the easements require both the Board's and Minister of Conservations consent. The Act under Section 48 states that, providing the reserve is not materially altered or permanently affected and the rights of the public in respect of the reserve are not likely to be permanently affected, the advertising requirement of the act can be dispensed with. Given the services are underground the exemption applies in these cases. Accordingly, given that the reserve is a Local Purpose Reserve, the Board can exercise its delegation from the Council to make the Council's decision and further it can also exercise the Minister of Conservation's consent which has similarly been delegated to the administering authority. It is, therefore, in order for the Board to approve the easements under delegated authority.

FINANCIAL IMPLICATIONS

4. There are no financial implications. All costs are recovered from the developer.

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

5. There are no budget implications.

LEGAL CONSIDERATIONS

6. There are no legal impediments to the transaction.

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

7. Yes, it will satisfy the Council's obligations under the Reserves Act.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

8. Yes.

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

9. Not applicable. This activity is not covered in the LTCCP.

ALIGNMENT WITH STRATEGIES

10. There are no Council Strategies relevant to this transaction.

Do the recommendations align with the Council's strategies?

11. Yes. See above.

CONSULTATION FULFILMENT

12. Not required as it complies with the exemption under the Reserves Act 1977 as the Reserve will not be materially affected.

STAFF RECOMMENDATION

It is recommended that the Shirley/Papanui Community Board under Delegated Authority approve the rights to drain sewage and water in gross over Lot 28 DP 383777 pursuant to the provisions of Section 48 of the Reserves Act 1977 and as the Reserve will not be materially affected public notice under the Act not be given.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be adopted.