

**13. EASEMENT OF LOCAL PURPOSE (WATERWAY) RESERVE**

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941 8608
<b>Officer Responsible</b>	Transport and Greenspace Unit Manager
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**PURPOSE OF REPORT**

1. The purpose of the report is to seek approval from the Hagley/Ferrymead Community Board for a right to drain water in gross through a Local Purpose (Waterway) Reserve adjoining Cavendish Grove.

**EXECUTIVE SUMMARY**

2. At the time Horncastle Homes obtained subdivision consent for its Cavendish Grove subdivision (off St Lukes Street) it secured a right to drain storm water from the subdivision across the Councils adjoining Local Purpose (Waterway) Reserve (depicted as Section 1 SO 20269 on the **attached** plan) and then discharging into the Linwood Canal. As part of the consent the company were required to construct a storm water basin within the reserve at its cost as well as paying the Council \$30,375 compensation. In addition it has a liability to maintain the basin for a 12 month period.
3. The Local Purpose (Waterway) Reserve was purchased by the Council some years ago from the previous owner to facilitate the enhancement of the Linwood Canal. This has been partially completed within the area fronting the Samoan Church and discussions are now in hand with Horncastle Homes over the possibility of completing the remainder of the project. The easement being sought and the storm water basin are part of the overall concept as it was always envisaged that storm water from the neighbouring subdivisions would discharge into the canal.
4. Although an easement in gross has been provided on the subdivision plan to protect the services they have not been created as required under Section 48 of the Reserves Act 1977. The creation of easements require both the Board's and Minister of Conservation consent. The Act under Section 48 states that providing the reserve is not materially altered or permanently damaged 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 reserve is held for these purposes the exemption applies in this case. Accordingly given 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 been delegated to the administering authority. It is, therefore, in order for the Board to approve the easement under delegated authority.

**FINANCIAL IMPLICATIONS**

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

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

6. There are no budget implications.

**LEGAL CONSIDERATIONS**

7. There are no legal impediments to the transaction.

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

8. Yes it will satisfy the Councils obligations under the Reserves Act 1977.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

9. Yes.

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

10. Not applicable. This activity is not covered by the LTCCP.

**ALIGNMENT WITH STRATEGIES**

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

**Do the recommendations align with the Council's strategies?**

12. Yes, see above.

**CONSULTATION FULFILMENT**

13. Not required as it complies with the exemption under the Reserves Act 1977 as the reserve is being utilised for the purpose for which it is held.

**STAFF RECOMMENDATION**

It is recommended that the Hagley/Ferrymead Board under delegated authority approve the right to drain water in gross over Section 1 SO 20269 and depicted as Parcels E and F on Deposited Plan 426566 pursuant to Section 48 of the Reserves Act 1977, and as the reserve is being utilised for the purposes for which it is held public notice under the Act not be given.

**CHAIRPERSON'S RECOMMENDATION**

That the staff recommendation be adopted.