

## 12. EASEMENT OVER LOCAL PURPOSE (LANDSCAPE) RESERVE – CLEARBROOK PALMS

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

1. The purpose of this report is to seek the Board's approval to the granting of electricity and telecommunications easements in gross over Council owned reserve located near the Innes Road/Queen Elizabeth II Drive intersection.

### EXECUTIVE SUMMARY

2. At the time of subdivision by Suburban Estates Limited, the Council secured Lot 53 DP 331269 as a Local Purpose (Landscape) Reserve by way of reserve contribution for the subdivision.
3. The subdivision was completed and titles issued in January 2004, the easements were constructed and have been physically in place since this time but the formalities to complete registration of the easements have never been completed. The Certificate of Title, Deposited Plan and Aerial Photograph attached show ownership, specific and general locality of the easements (refer **attachment 1, attachment 2 and attachment 3**).
4. The easements to be granted are a right to convey electric power in gross in favour of Orion New Zealand Limited the marked AQ, AR and AS on Deposited Plan 331269 and a right to convey telephonic communications in gross in favour of Telecom New Zealand Limited marked AQ on Deposited Plan 331269 (**attachment 2**).

### FINANCIAL IMPLICATIONS

5. There are no financial implications for the Council; all costs will be met by the developer Suburban Estates Limited.

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

6. There are no budget implications as all costs will be recovered.

### LEGAL CONSIDERATIONS

7. There are no legal impediments to this transaction.

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

8. Under Section 48 of the Reserves Act 1977, before granting easements over a Reserve the Council is required to give public notice specifying its intentions to grant any easement, however subsection 48 (3) allows an exemption from advertising and applies in this case as the reserve has not been materially altered or permanently damaged. The rights of the public are not affected, advertising is not required.
9. The legal description of the reserve land affected is Lot 53 Deposited Plan 331269 (**attachment 2**) and is held in Computer Freehold Register 128730.
10. The consent of the Department of Conservation must be obtained prior to granting easements over reserves and will be obtained once Community Board approval is given.
11. Community Boards have the delegated authority to grant easements over reserves.

### ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Not applicable.

**Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

13. Not applicable, the activity is not covered in the LTCCP.

**ALIGNMENT WITH STRATEGIES**

14. Not applicable.

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

15. There are no Council strategies relevant to this transaction.

**CONSULTATION FULFILMENT**

16. Not required as it complies with the exemption outlined under legal considerations.

**STAFF RECOMMENDATION**

It is recommended that the Board pass the following resolutions:

- a) That the right to convey electricity in gross in favour of Orion New Zealand Limited over the Council's land described as part Lot 53 DP 331269 marked AQ, AR and AS on DP 331269 (**attachment 2**) is granted under Section 48 of the Reserves Act 1977.
- b) That the right to convey telephonic communications in gross in favour of Telecom New Zealand Limited over the Council's land described as part Lot 53 DP 331269 marked AQ on DP 331269 (**attachment 2**) is granted under Section 48 of the Reserves Act 1977.

**CHAIRPERSON'S RECOMMENDATION**

That the staff recommendation be adopted.