

## 2. ESTABLISHMENT OF EASEMENTS AS PART OF THE UPPER WILDERNESS DRAIN PROJECT

<b>General Manager responsible:</b>	General Manager City Environment, Jane Parfitt, DDI 941-8656
<b>Officer responsible:</b>	Transport and Greenspace Manager, Michael Aitken, DDI 941- 8096
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### PURPOSE OF REPORT

1. This is an expanded version of the report considered by the Council on 16 August 2007. The report was not considered at that meeting because:
  - (a) It needed to be first referred to the Spreydon/Heathcote Community Board for consideration, then forwarded to a meeting of the Council for decision making.
  - (b) The Council questioned why it is intended to pipe the existing section of boxed Upper Wilderness drain.

Question 1 (b) is addressed under the Executive Summary.

The purpose of this report is for the Council to approve or otherwise a staff recommendation that by agreement with the property owners of 334, 336, and 342 Lyttelton Street, the Council acquires easement to enable a stormwater main drain to be laid. The required land, two parcels being approximately 30m<sup>2</sup>, and one parcel being 50m<sup>2</sup>, will be transferred to the Council through Memorandums of Transfer. The area in question is shown in Attachment 1.

### EXECUTIVE SUMMARY

2. The timbered waterway, the Upper Wilderness Drain which currently runs through residential properties from Edinburgh Street to Lincoln Road, is in a deteriorated state and in need of replacement and hydraulic improvement. It is impracticable to replace and naturalise the existing flow path area as a stream because of the insufficient widths of the existing easements and physical obstructions on residential properties. The purpose of the Council obtaining additional easements is to enable alignment of the intended drain.
3. Pipe renewal in place of the timber waterway has been scheduled in the Capital Programme by the Transport and Greenspace Unit in the 2007/2008 financial year.
4. Piping will be installed within the existing drain alignment, covered by a number of existing easements that run mainly along the rear, and in some cases, side boundaries of properties in Edinburgh Street, Lyttelton Street, Blakehall Place and Lincoln Road. Whilst easements exist at 334 and 336 Lyttelton Street, the Council needs to acquire additional complementary easements on each property of a width of 2.0 metres each to enable the intended stormwater drain of 1.0 to 1.2 metre diameter pipe to be accommodated and to also enable construction corridor access and alignment of the intended drain. A new easement of 3.0 metres width will also need to be established at 342 Lyttelton Street, as no easement currently exists to enable laying of the drain.
5. Agreement has been reached by the Council with the property owners of 334, 336, and 342 Lyttelton Street, with the Council agreeing to undertake any restoration works. Details of the intended restoration works have been conveyed to the property owners in writing. The owners of the properties have not indicated they seek compensation from the Council to obtain easements and have property rights over their land.

### FINANCIAL IMPLICATIONS

6. The funding is being provided from the Transport and Greenspace Capital Programme. Specifically \$1,375,000 in 2007/08 from Utility Waterway Relining – Upper Wilderness Drain.

### Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

7. Yes. Funding is provided from within the Transport and Greenspace Capital Programme in the 2006-16 LTCCP.

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

8. The legal implications of the proposal have been considered. Delegated authority for a decision to approve or otherwise the Council obtaining the subject lands by Memorandum of Transfers, approximately 30m<sup>2</sup> from Lot 2 DP 8394, 334 Lyttelton Street, approximately 30m<sup>2</sup> from Lot 3 DP 8394, 336 Lyttelton Street, and approximately 51m<sup>2</sup> from Part Lot 2 DP 2292, 342 Lyttelton Street, rests with the Council under the general governance provisions of the Local Government Act 2002. The Council's Corporate Support Manager or the Spreydon/Heathcote Community Board do not have delegated authority to make this decision.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

9. LTCCP 2006-16 - Parks, Open Spaces and Waterways – Page 123, Waterways and Land Drainage. The Council provides and operates the city's stormwater system, manages the waterways into which it discharges and it protects and enhances the life-supporting capacity of the city's waterways and wetlands.

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

10. Yes. Specifically \$1,400,000 in 2007/08 from Utility Waterway Relining – Upper Wilderness Drain.

**ALIGNMENT WITH STRATEGIES**

11. **Supports Council's Strategic Direction – Healthy Environment**  
Goal 3 – Manage water and land drainage systems efficiently, and contribute towards landscape, ecology, recreation, heritage and cultural values.

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

12. Yes as above.

**CONSULTATION FULFILMENT**

13. All property owners whose properties will be affected by the laying of the stormwater drain, or whose properties border existing easements, have been written to, and provided with a comment form. The Council has indicated to affected property owners the restoration works intended, and oral and written comments received by the report authors have all been positive. All written comments received will assist project implementation.

**STAFF RECOMMENDATION**

It is recommended that the Council approve the acquisition of easements over 334, 336 and 342 Lyttelton Street as generally outlined in this report.

**BOARD RECOMMENDATION**

That the staff recommendation be adopted.