

### 13. RECLASSIFICATION OF PART OF GRAMPIAN STREET RESERVE

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Corporate Plan Output: Fence, Sub Output – Leases, (9.4.8)	

The purpose of this report is seek the Board’s recommendation to the Parks and Recreation Committee to classify part of Grampian Street Reserve to enable the sinking of a new well, and associated headworks. There is also the necessity to grant an easement from the proposed well site across the reserve to the Grampian Street pumping station, which is situated upon the front portion of 62 Grampian Street, for the pipe to carry water to the pumping station. Legal road frontage will be provided to the proposed local purpose reserve by way of a right of way easement from Cavendish Road.

There is a need to classify the 3 titles of land that were vested as recreation reserve upon subdivision i.e. PT Reserve 4850 being Lot 35 DP 18581 of 0.2711 hectares, PT Reserve 4886 being Lot 8 DP 19065 of 0.4520 hectares, 0.0220 hectares of this title being classified as Local Purpose Reserve, and Reserve 5086 being Lot 3 DP 20806 of 0.1348 hectares.

Lot 2 DP 20806 of .1077 hectares is part of the reserve but has not been vested in the Council as such, being held as fee simple land under the local Government Act 1974. This Lot should be declared as recreation reserve. This will be separately reported.

#### **THE APPLICATION**

The Water Services Unit requires an additional well at the Grampian Street Pumping Station, to ensure that there is sufficient capacity at the pumping station to keep up with the increased water requirement for the area, resulting from further subdivision.

The sinking of a further well upon the present site, which already has four wells upon it, would severely affect the performance of the existing and proposed well, the reason being the close proximity of all the wells. To maximise the performance of any new well, a separation distance of approximately 100 metres is required between those already existing. The proposed site for the new well head is in Grampian Street Reserve, behind the property at 77 Cavendish Road. The location of a well head in this location will have minimal effect upon the recreation potential of the reserve, now and in the future, whilst providing the separation distance required between the new well and those already existing. The concrete well head which will be 2 metres in diameter will be constructed flush with the ground surface, thereby having minimum impact upon the reserve.

## LEGAL ISSUES

The part of the reserve in which it is proposed to site the new well is Part Reserve 4886, (Lot 8 D.P. 19065), being an area of 4,740 square metres. This reserve is vested as a recreational reserve (Gazette 57/1120) but as yet is not classified. It is not possible to locate a well upon a recreational reserve and therefore part of this part of the reserve will need to be classified “local purpose reserve (public utility)” to enable the well to be sited upon the reserve.

Officers are of the opinion that an easement should be created from the proposed local purpose reserve across the two parcels of land, (Part Reserve 4886, being Lot 8 D.P. 19065 of 4,740 square metres, and Part Reserve 4850 being Lot 35 D.P. 18581 of 2,711 square metres) both of which are to be classified as Recreation Reserve being situated between the proposed local purpose reserve and the pumping station which is upon 62 Grampian Street, to enable the pipeline to be put in place between the well head and the pumping station. The reason for this opinion is that should the Council wish, or be required to by Government legislation, to corporatise or divest its control of the Water Services Unit, the undertaking of the above legal work will enable these facilities to be transferred to the new corporate body with the proper easements in place.

The Council will need to provide legal road frontage to the proposed local purpose reserve from Cavendish Road. This will be done by the provision of a right of way easement from Cavendish Road across the two parcels of land, (Reserve 5086, being Lot 3 DP 20806 of 1,348 m<sup>2</sup> and Part Reserve 4886, being Lot 8 DP 19065 of 4,740 m<sup>2</sup>) to the proposed local purpose reserve. The right of way will be created on a S.O. Plan by Gazette notice, which means that the right of way does not have to be formed, thereby ensuring the reserve stays in its present state. Access will be required to the sink well and construct the well head, however once completed, vehicle access to the well head will only be required occasionally.

## DISCUSSION

The proposed local purpose reserve (public utility) will be 220 square metres in area situated behind 77 Cavendish Road) see attached scheme plan. The easement across the two adjacent parcels of land which make up part of the recreational reserve will be 1 metre wide by 111 metres in length, a total of 111 square metres. All costs incurred in the classification of part of the existing reserve, local purpose (utility) reserve, and the creation of the easement, will be paid for by the applicant (Water Services Unit). The Council can grant itself an easement under Section 48 of the 1977 Reserves Act which is entitled “Grants of Rights of Way and Other Easements”. Section 1 (e) allows the Council to grant an easement to itself as outlined below:-

*(1) Subject to subsection (2) of this section and to the Resource Management Act 1991, in the case of reserves vested in an administering body, the administering body, with the consent of the Minister and on such conditions as the Minister thinks fit, may grant rights of way and other easements over any part of the reserve for..*

*(e) The provision of water systems; or*

Subsection 3 of Section 48 of the 1977 Act outlines the cases in which public advertising of the intention to create the easement is not required, (see this section reproduced in italics below), this proposed easement falling within this category.

*(3) Subsection (2) of this section shall not apply in any case 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.*

The Council by resolution is able to classify Pt Reserve 4850, 4886 and Reserve 5086 recreation reserve because of the authority granted to Council by Section 16, 2A (a) of the Reserves Act 1977 which states:

*Notwithstanding subsection (1) of this section, where any reserve was ..*

*(a) Vested in a local authority which did not derive its title to the land from the Crown; and is or remains vested in a local authority, that local authority shall, by resolution, classify the reserve according to its principal or primary purpose, as defined in sections 17 to 23 of this Act.*

No public notice is required because the reserve complies with Section 16, (5) (a) of the Reserves Act 1977 which states:

*Notwithstanding subsection (4) of this section, no such public notice shall be necessary where..*

*(a) The classification proposed for any reserve is substantially the same as the purpose for which the reserve was held and administered immediately before the commencement of this Act.*

**Recommendation:** That the Board make the following recommendation to the Parks and Recreation Committee:

1. That the Council approve the proposal to site a well in Grampian Street Reserve behind No. 77 Cavendish Road and associated pipeline to the pumping station situated at 62 Grampian Street, subject to the following conditions:
  - (a) Pursuant to Section 16 Reserve Act 1977 the classification as Local Purpose (public utility) of part Reserve 4886 comprised in Certificate of Title, Volume 655, Folio 18. (220 square metres), as shown on the attached plan.
2. A 1 metre wide easement comprising 111 m<sup>2</sup> as shown on attached plan being granted over Part Reserve 4886 and Part Reserve 4850.

3. The creation of an 8 metre wide easement comprising 169 square metres, as shown on the attached plan, being granted over Reserve 5086 and Part Reserve 4886.
4. The Water Services Unit to obtain all necessary Resource and Building Consents before any development commences upon the site.
5. All costs associated with the re-classification of the reserve, granting of the easement, development and subsequent maintenance of associated building and structures upon the site being paid for by the Water Services Unit.
6. The Contractor undertaking the work is to show proof of having obtained \$1,000,000 public liability to the Area Parks Officer (Consents).
7. A bond of \$2,000 is to be paid by the successful principal contractor to the Christchurch City Council, Area Parks Officer, Fendalton Service Centre, before work commences upon the site. The bond less any expenses incurred by the Council will be refunded to the payee upon the completion of the work.
  - (b) That Council resolve pursuant to Section 16 Reserve Act 1977, to classify as recreation reserve part of Reserve 4886 Lot 8 DP 19065 (4520 square metres), part of Reserve 4850 Lot 35 DP 18581 (2711 square metres) and Reserve 5086 Lot 3DP 20806 (1348 square metres), the first 2 titles being contained in Part Rural Section 799 Certificate of Title, Volume 665, folio 18, the last title being contained in Part Rural Section 299 Certificate of Title, Volume 787, folio 65.
8. Compliance with the provisions of the Reserves Act 1977 with respect to the classification of reserves.

**Chairperson's**

**Recommendation:**

That the officers recommendation be adopted, and that any drilling be undertaken during the hours of 8.00 am – 4.00 pm weekdays only.