

## 9. REDWOOD PARK EASEMENT

<b>Officer responsible</b> Parks & Waterways Manager	<b>Author</b> John Allen, Policy & Leasing Administrator, DDI 371-1699
Corporate Plan Output: Consents; Sub Outputs: Leases (9.4.10)	

The purpose of this report is to approve an application by Telstra Clear Ltd for an easement through Redwood Park in which to lay a fibre optic cable to service the Redwood Public Library situated on the Main North Road frontage of the park.

### CONTEXT OF THIS REPORT

The Community Board has delegated authority from Council to approve or otherwise an application for an easement through a park or reserve. The majority of Redwood Park upon which the easement is to be located (RS 41272 CT 244/204 of 5.2803 hectares) is a recreational reserve held pursuant to the Reserves Act 1977. The front portion of the park bounding the Main North Road (RS 41271 CT 244/204 of 0.6132 hectares) is held as Local Purpose (Community Buildings) Reserve subject to the Reserves Act 1977. The Redwood Library and Kindergarten is situated on this portion.

### RELEVANT CURRENT POLICY

Council policy requires that the applicant, if the application is successful, pay the Council compensation as decided by independent valuation, for the privilege of installing services across a park or reserve in the Christchurch City Council area, where the service is not benefiting a structure built upon the reserve. The second policy which was approved by Council at the time of approving the 2001/2002 budget is that the applicant must pay all the Council's costs (investigating, reporting etc.) in relation to the creation of the easement.

Telstra Clear was successful in obtaining the Council contract to service the Council's communication needs, and as such the laying of this fibre optic cable from their main cable which runs along the main trunk railway line through to Redwood Public Library is to service the Council's needs. An extension of this cable to Main North Road is being laid at the same time, to enable the Redwood Library to be serviced from Main North Road should the network be eventually extended into the Redwood area. Because the cable is being laid to service the Council's needs, officers will be recommending that no compensation, or other costs, are paid to the Council in this case.

### DISCRIPTION OF THE PROPOSAL

It is proposed that the fibre optic cable be laid along Sturrocks Road, entering the park at the western end of the Sturrocks Road frontage, then laid around the outside of the sports field area through to the Redwood Library, with an extension for future use through to the Main North Road, (see attached plan). It is proposed that the easement be 1 metre in width, requiring a total easement area of approximately 541 square metres.

The applicant will not create the easement as an easement in gross, thereby limiting the use of services in the easement to service the Redwood Public Library only.

### ISSUES FOR CONSIDERATION

The proposed easement alignment is situated away from the sports field areas, thereby ensuring that services that are laid in the sports fields to assist with the managing of the playing area (i.e. irrigation systems etc) can be serviced without fear of cutting a fibre optic cable.

### RESULTS OF CONSULATION

Under Section 48(2) of the Reserves Act 1977, Council is required to give public notice in accordance with Section 119 of the Act specifying the right of way or easement intended to be granted, giving full consideration in accordance with Section 120 of the Act to all objections and submissions received in respect of the proposal. Section 48 (3) of the Act outlined below for Board Members information, allows an exemption to be made to the advertising requirement where the reserve is not permanently damaged, altered, or does not affect the public's rights.

*“(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 easements.”*

This proposed easement clearly falls within the bounds outlined in Section 3 and therefore public advertising is not required, only the approval of Council. For Board Members information, easements of this type, which fall within the bounds of subsection 3 of section 48 of the Reserves Act 1977 have never been publicly advertised in the past.

## **CONCLUSION**

The applicant’s proposal will only cause temporary disruption to the public’s use of the park, having no affect upon the public’s enjoyment of the park in the future. If the application is granted, the approval will be subject to the applicant complying with the conditions as outlined below:

1. Approval by the Minister of Conservation.
2. The area covered by the easement to be available for public use at all times.
3. The easement terms being negotiated by the Property Manager in consultation with Parks and Waterways Policy and Leasing Administrator.
4. The easement being maintained by Telstra Clear Ltd and its contractors, in a safe and tidy condition at all times.
5. Reconstruction of the sealed footpath (if acquired) is to be undertaken in accordance with the conditions outlined in the Christchurch City Council information sheet entitled “Trench Restoration for Paved Areas”.
6. All costs associated with installing the fibre optic cable and subsequent maintenance of the services within the easement being paid for by Telstra Clear Ltd.
7. Before any tenders are let or work commences upon the site, discussions are to be held with the Parks and Waterways Area Advocate, Shirley/Papanui to ascertain the Council’s requirements through the development phase of the construction of the facility.
8. A bond of \$500.00 is to be paid by Telstra Clear Ltd, or the successful principal contractor to the Christchurch City Council – Parks & Waterways Area Advocate, Shirley/Papanui, before work commences upon the site. The bond less any expenses incurred by the Council will be refunded to the payee upon completion of the work.
9. A plan as built must be lodged with the Christchurch City Council – Parks and Waterways Policy and Leasing Administrator within three months of the work being completed to enable the easement to be formally registered at the Council’s expense.

**Recommendation:** That a registered easement (not an easement in gross) is granted over approximately 541 square metres as shown on the attached plan of Redwood Park in favour of Telstra Clear Ltd in which to lay a fibre optic cable to service the Redwood Public Library pursuant to Section 48, (1)(f) of the Reserves Act 1977, subject to conditions 1-9 outlined above.

**Chairperson’s Recommendation:** That the officer’s recommendation be adopted.