


10. CASS BAY PLAYGROUND – PROPOSED EASEMENT FOR RELOCATED 11 KVA SUBSTATION

General Manager responsible:	General Manager City Environment Group, DDI 941-8608
Officer responsible:	Unit Manager Asset and Network Planning
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PURPOSE OF REPORT

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1. The purpose of this report is for the Board to consider an application from Orion Company Limited (Orion) for an easement to enable them to relocate their present 11 KVA transformer in the Cass Bay Playground.

EXECUTIVE SUMMARY

2. A report was placed before the Community Board at its 8 December 2009 meeting in which it was recommended that an easement be granted to Orion to enable them to site the new upgraded 11 KVA transformer behind the toilet block adjacent to the children's playground in Cass Bay. The Board had concerns about placing the transformer in this position close to the playground, resolving: *"That the report lie on the table until the Board receives revised plans clarifying the location of the new site in relation to the playground and in particular, the elevation and roof levels in relation to the playground, plus details of the landscape plan."*
3. Since this time Council staff have worked, initially with Orion staff, and subsequently with local adjacent residents and the Cass Bay Residents Association, to find a more acceptable site on the reserve for the upgraded transformer, which better complies with crime prevention through environmental design principles, and does not compromise the long term planning for the reserve as did the initially proposed site in the middle of the park.
4. Four sites were initially identified as shown on **Attachment 1** and discussed with the adjacent residents and the Residents Association, with option 2 (the kiosk being located in the front of the reserve with its back against the fence) finding favour with these residents.
5. This siting moves the transformer away from the centre of the park to the edge, minimises its visual impact on the reserve as viewed from the road, allows servicing of the transformer to occur without disrupting recreational activities occurring around the playground, is in alignment with the "Crime Prevention Through Environmental Design" principles as contained within the Safer Christchurch Strategy and allows for the redevelopment of the reserve to occur at some time in the future without the need to work around a transformer located in the middle of the park.
6. It will be necessary for the gravel path leading into the park to be realigned around the transformer (as shown on **Attachment 1**) after connecting up the cables to the transformer in its new location. There is also a need to remove the existing transformer building which is attached to the toilet block, and 'make good' the wall of the toilet block after the addition has been removed. This work will be undertaken by Orion at their expense.
7. There will be a need to put further easements in place over the reserve over the area in front of the substation in which the re-routed cables to the substation will be placed. These cables will be underground and therefore will not affect the recreational use of the reserve. These easements will be put in place, "as built" after the re-routed cables are laid.
8. Subsequent to the consultation with residents, staff advertised the preferred site in the Public Notices column of The Press newspaper on Saturday 15 May 2010, as detailed in **Attachment 2**, as per the requirements of the Reserves Act 1977. A memorandum dated 4 May 2010 was circulated to Board Members informing them of the process being followed to resolve the siting issue as rapidly as possible to enable Council approval to be given to granting the easement. No submissions to the public advertisement were received.
9. Staff are recommending that the proposed easement in favour of Orion be granted.

FINANCIAL IMPLICATIONS

10. There are no financial implications to the Council as Orion has agreed to pay all costs associated with putting the easement in place and relocating the transformer.

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

11. This project will have no impact on existing Council budgets.

LEGAL CONSIDERATIONS

12. The legal description of Cass Bay Playground is Lot 77 Deposit Plan 24151 being a recreation reserve of 5084 square metres vested in the Council under the Reserves Act 1977, contained in Certificate of Title CB5C/302.
13. Under section 48 of the Reserves Act 1977 (the Act) the Council is able to grant easements over reserve land vested in the Council.
14. The Council under section 48(2) of the Act is required to give public notice of its intention to grant the easement in a newspaper which circulates in the area, giving the public one calendar month to make a submission or object to the Council's proposal.
15. Section 48(3) of the Act states that it is not necessary to comply with section 48(2) if it is considered that (a) the reserve is not likely to be materially altered or permanently damaged, or (b) the rights of the public are not likely to be permanently affected. This application fails these tests because the substation is built above the ground and therefore the reserve will be materially altered, although in this case officers contend only in a minor way which will have less impact upon the park than the present location.
16. The proposal has been publicly advertised, which is amplified upon below and no submissions were received.
17. As described below (clause 22) when choosing the agreed site Council officers were mindful of ensuring that the new site complied with "Crime Prevention Through Environmental Design" principles.
18. The Council has delegated its authority to grant easements under section 48 of the Act to the Community Boards and therefore the decision that the Board makes is the decision of Council.
19. Council policy dictates that an applicant for an easement pay the Council a one off compensatory payment, as decided by independent valuation for the privilege of having an easement encumbrance placed on the Council's title (27 September 2001). Officers are recommending that because the easement being requested is to relocate an existing 11 KVA transformer within the reserve to a better location, from a reserve design perspective, that this policy not be applied in this case.

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

20. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

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

21. Not applicable.

ALIGNMENT WITH STRATEGIES

22. The shifting of the transformer cabinet from its present location attached to the toilet block in the centre of the playground "space" to the edge of the reserve is in alignment with the "Crime Prevention Through Environmental Design" principles as contained in the Safer Christchurch Strategy, by allowing the removal of the building housing the present transformer, which in turn will allow for better views into the playground area from the road.

Do the recommendations align with the Council's strategies?

23. Yes, see above.

CONSULTATION FULFILMENT

24. Council and Orion staff worked together to identify a number of better possible sites for the location of the new transformer which did not compromise the central recreational areas of the reserve.
25. Staff visited the residents at 48 Bay View Road, the property adjacent to the park and the one that the new transformer will be backed up against, 39 Harbour View Terrace the property across the road opposite the park, and 31 Harbour View Terrace the property diagonally back from the reserve on the corner of Bay View Road and Harbour Crescent. These residents chose the second option, shown as Option 2 on **Attachment 1**.
26. Subsequent to this a public notice was placed in the "The Press" newspaper, **Attachment 2**, as required by Section 48(2) of the Act on Saturday 15 May 2010, closing on Wednesday 16 June 2010 inviting submissions on the proposal to grant a four square metre easement to Orion Company Limited on which to build a 11 KVA substation, from which no submissions were received.

STAFF RECOMMENDATION

It is recommended that the Board under delegated authority from the Council grant Orion Company Limited an easement pursuant to section 48(1)(d) of the Reserves Act 1977 over approximately four square metres on which to place a transformer, and an area "as built" in which cables to the transformer will be laid, of the Cass Bay Playground which is Lot 77 Deposit Plan 24151 a recreation reserve of 5084 square metres vested in the Council under the Reserves Act 1977 contained in Certificate of Title CB5C/302, subject to the following conditions:

- (a) The consent of the Minister of Conservation being obtained;
- (b) The easement terms being negotiated by the Corporate Support Manager or his nominee in association with the Policy and Leasing Administrator;
- (c) The easement construction area being maintained by the applicant and their contractors in a safe and tidy condition at all times;
- (d) All costs associated with the survey and registration of the easement on the Councils title, being paid for by the applicant;
- (e) The applicant is to provide the Council, within three months of completion of the work, a surveyed easement plan on which the new easements are shown;
- (f) The applicant is to provide the Council, within three months of completion of the work a copy of the title on which the easement is shown;

- (g) That the Council resolves not to request a one off compensatory payment for the privilege of having the easement encumbrance placed on the Council's title in accordance with Council policy (27 September 2001), because the easement being requested is to relocate an existing 11 KVA transformer within the reserve to a better location from the reserve design perspective;
- (h) The Council is to charge the Orion Co Ltd for the officers' time, public advertising, Department of Conservation approval fees and other processing expenses to process the application for the easement in accordance with Council Policy (12 July 2001);
- (i) That Orion Company Limited at their expense relocate the gravel path leading into the park around the newly located transformer, re-grass the area after connecting up the cables to the transformer in its new location; and 'make good' the wall of the toilet block after the addition has been removed;
- (j) The applicant is to pay a \$2,000 bond to the Council via the Greenspace Contract Manager, Lyttelton Service Centre, and sign a temporary access licence before any construction commences on the site. The bond less any expenses incurred by the Council will be refunded to the payee upon completion of the development to a standard acceptable to the Greenspace Manager.