

## 10. ENTERPRISE HOMES KINTYRE ESTATES SUBDIVISION – GAS EASEMENTS

<b>General Manager responsible:</b>	General Manager, City Environment Group, 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 obtain the approval of the Riccarton/Wigram Board, under the delegated authority of the Council, to create easements in gross over vested reserve lots within stages 1 and 2 of the Kintyre Estates residential subdivision, Masham in favour of Rockgas Limited for gas service lines that have been installed. (**Attachments 1 and 2**).

### EXECUTIVE SUMMARY

2. The Council has received by way of reserve contribution on subdivision, local purpose reserve lots for drainage and landscaping purposes in Stages 1 and 2 of the Enterprise Homes development at Masham. Stage 1 of this subdivision deposited in August 2009 and at that time Enterprise Homes as owner of all the land (including the land to become reserves) as part of that plan, provided for the creation of various utility easements. A temporary gas tank facility was provided for Stage 1 with full gas reticulation to be completed on Stage 2 which deposited June 2011.
3. All reserve utility easements in Stages 1 and 2 with the exception of gas were created at the time of vesting. The gas easements are still required by Rockgas Limited, the service provider, but as the plans have now deposited and the reserves have vested in the Council, the Council's consent as landowner (not as subdivision consent) is required to allow registration of these easements to be completed.
4. Compensation payment for the easements is not being requested in this instance. Following the first subdivision consent in 2008 which included many stages, a long period of negotiation between Enterprise Homes and the Council concluded with all financial contributions/payments in total being paid in full to the Council in advance of Stage 2 and prior to all other stages being completed. These easements are part of that package to serve the subdivision as required.

### FINANCIAL IMPLICATIONS

5. There are no financial implications of any significance for the Council with all costs to create the easements to be met by the applicant.

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

6. Not applicable.

### LEGAL CONSIDERATIONS

7. Section 48 of the Reserves Act 1977 provides that 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 in this case (1 (c), the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy.
8. Subsection 2 provides that before granting a right of way or an easement under subsection (1) over any part of a reserve vested in it, the administering body shall give public notice in accordance with section 119 specifying the right of way or other easement intended to be granted, and shall give full consideration, in accordance with section 120, to all objections and submissions received in respect of the proposal under that section.
9. Further subsection (3) states Subsection (2) 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.
- 10. This application falls within the provisions of Subsection 3 as the rights of the public not likely to be permanently affected (the services are under ground) and accordingly public notice is not required. The consent of the Minister of Conservation is delegated to the Council as “the activity is an existing use” and the effects of the use will be the same or similar in character intensity and scale”.
- 11. The Community Board has the delegated authority of the Council as the decision maker to approve the granting of easements pursuant to Section 48 (1) of the Reserves Act 1977.

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

- 12. Yes, as above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

- 13. Not applicable.

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

- 14. Not applicable.

**ALIGNMENT WITH STRATEGIES**

- 15. Not applicable

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

- 16. Not applicable.

**CONSULTATION FULFILMENT**

- 17. As stated in paragraph 7 there is no need for statutory notification of the intent to grant the easement.

**STAFF RECOMMENDATION**

It is recommended that the Riccarton/Wigram Community Board:

- (a) Pursuant to Section 48 (1) (c) of the Reserves Act 1977, approve the granting of an easement in gross for the reticulation of gas over Lot 401, DP 416100 (Local Purpose (Drainage)) Reserve and Lot 406 DP 434191(Local Purpose (Landscaping)) Reserve in favour of Rockgas Limited.
- (b) Subject to (a) Give the consent of the Minister of Conservation pursuant to a delegation under Section 10 of the Reserves Act 1977 to the creation of the easements.
- (c) All costs in creating the easements being met by Rockgas Limited.