

**38. HIGH STREET TUAM STREET CORNER RESERVE EASEMENT HEARINGS PANEL REPORT TO COUNCIL REQUESTING AN EASEMENT FOR THE TRAM INFRASTRUCTURE ACROSS THE HIGH STREET TUAM STREET CORNER RESERVE**



<b>General Manager responsible:</b>	General Manager City Environment DDI 941-8608
<b>Officer responsible:</b>	Unit Manager Network Planning
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**PURPOSE OF REPORT**

1. The purpose of this report is for the Reserves Hearings Panel who have heard submitters views to recommend to the Council that it grant unto itself an easement in which to construct tram rails and erect a tram shelter in the High Street Tuam Street Corner Reserve, which is administered by the Council under the Reserves Act 1977 (the Act).

**EXECUTIVE SUMMARY**

2. Part of stage one of the extended tram route requires the tram to turn from Tuam Street into High Street by passing through the High Street /Tuam Street Corner Reserve. To enable this to occur the Council needs to grant unto itself an easement across the reserve pursuant to the requirements of section 48(6) of the Act.
3. The location and extent of the proposed easement is shown in the plan labelled 'High Street Tuam Street Tram Route Reserve Plan (number RD208937 Issue 6 dated 10 August 2010) attached as **Attachment 1**. A tram shelter is included in the proposed infrastructure to be built within the easement. The Council will own all the infrastructure that will be placed within the easement.
4. Public notice as legally required by section 48(2) of the Act has been given, this requirement being extended by hand delivering and posting letters to tenants and owners of properties that surround the reserve, inviting all interested parties to submit their views on the proposal, for one calendar month during April/May 2010. Two submissions, one in support and one opposing it, were received. The submitters were heard before the Reserves Hearings Panel on 20 July 2010. A full report on these submissions and the hearing are provided in this report and its attachments.
5. The Reserves Hearings Panel is recommending to the Council that it grant the proposed easement unto itself subject to a number of conditions.

**FINANCIAL IMPLICATIONS**

6. All costs associated with the granting and registration of the easement are covered by the Central City Tram Extension Project which is included in the 2009-19 Long Term Council Community Plan. Funding for Stage 1 is provided for in the 2010/11 and 2011/12 financial years.

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

7. Yes.

**LEGAL CONSIDERATIONS**

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

8. The High Street Tuam Street Corner is a reserve held without title by the Christchurch City Council under the Christchurch City (Reserves) Empowering Act 1971 (CCREA) (item 34), which is a local act of parliament. The reserve is noted in the third schedule as the piece of land described under section 34 of this schedule. The "Reserves and Domains Act 1953", now superseded by the Reserves Act 1977, is the act by which all the land held under the CCREA is administered. This issue is addressed in section 12 of the CCREA.
9. Section 48(6) of the Act requires the Council to grant unto itself an easement.

10. Part 1 of Section 48 of the Act allows for the granting of rights of way and other easements across reserves. Part 2 of this section requires that before granting the easement the Council must publicly advertise its intention to grant the easement, for one calendar month, to enable interested parties to make a formal objection or submission to the proposal. Part 3 of this section allows these advertising provisions to be dispensed with if the proposed easement is not likely to 'materially alter or permanently damage the reserve, and the rights of the public are not likely to be permanently affected'.
11. This application does not meet these requirements and therefore public advertising was carried out in accordance with the requirements of section 48 (2) of the Act.
12. A title to the reserve will need to be raised and the easement registered on this title.
13. The Legal Services Unit will be involved in the final documentation of the easement. A copy of the Reserves Hearings Panel report to Council and the decision of Council will be sent to the Minister of Conservation to gain consent for the easement to be granted.
14. The Council's standard easement instrument will be completed and survey plans of the easement will be provided within three months of completion of the works within the easement corridor so that the easement can be registered on the title to the reserve, after the Minister of Conservation's consent is obtained to the granting of the easement, as required by the Act.

#### **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?**

15. Yes - the tram extension project is included in the 2009-19 LTCCP

#### **ALIGNMENT WITH STRATEGIES**

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

16. The proposal aligns with the Central City Revitalisation Strategy and related policies and plans, the Central City Transport Concept, the Greater Christchurch Urban Development Strategy, the Christchurch Visitor Strategy, the Parking Strategy 2003, Pedestrian Strategy 2001, and the Road Safety Strategy 2004 and is consistent with the findings of the Gehl Report (Public Space - Public Life).

#### **CONSULTATION FULFILMENT**

17. The Council's intention to grant the easement was advertised in the public notices column of The Press on Saturday 24 April 2010 and The Star on Friday 23 April 2010. The advertisement stated that interested members of the public had until Wednesday 26 May 2010 to make a formal submission to the Council about the proposal to grant an easement over the reserve. Copies of the advertisement are attached as **Attachment 2**.
18. The legal minimum public advertising requirement under section 119 of the Act is to advertise once in a newspaper circulating in the area in which the reserve is located for one calendar month. Therefore this minimum requirement was exceeded by advertising in two newspapers instead of just one; and also by hand delivering 46 individual letters as shown in **Attachment 3** to occupiers of nearby properties and posting 34 copies of the same letter to the owners of the same properties, in the areas outlined in the map attached as **Attachment 4**. In addition, notice was given about the easement proposal in a public information leaflet on a separate tram related proposal in Poplar Street, which was posted to property owners and hand delivered to occupiers of properties in a wider area contained within Lichfield Street, High Street, Tuam Street and Madras Street. This notice advised of the easement proposal (without elaborating upon the proposed easement) giving contact details for requests for further information. No requests were received.

19. Two formal submissions were received. One opposed and one supported the proposal. The full text of the submissions is shown in **Attachments 5a & 5b**. Both submitters attended the hearing on 20 July 2010 and spoke in support of their submissions.
20. The Hearings Panel made up of Councillor Bob Shearing (Chairperson), Councillor Ngaire Button and Councillor Claudia Reid heard the submissions and discussed the issues raised by the submitters and staff. The staff report to the Panel and attachments are provided as **Attachment 6**.
21. Council officer comments were provided to members of the Reserves Hearings Panel and submitters prior to the hearing date.
22. In summary, the submitter opposing the easement proposal claimed that:
  - (a) The proposal is not only for an easement but also for a complete change of use and will have a major effect upon the reserve.
  - (b) When the tram is stationary it will impede pedestrians using the footpath on High Street.
  - (c) There will be disruption to traffic flows and general danger caused by the tram turning off Tuam Street into the reserve, and out of the reserve into High Street as well as it passing through the pedestrian precinct.
  - (d) The tram shelter will interrupt the view of the old Post Office Building which is a heritage building.
  - (e) The loss of parking will kill retail activity in the area.
23. Council officers' response to each point was as follows:
  - (a) Except for the time when trams are travelling over the reserve and approximately 10 square metres of the reserve taken up by the tram shelter, the activities taking place on the reserve will be much the same as at present, and therefore the change is considered to be no more than minor.
  - (b) As shown on **Attachment 2**, the point where the tram stops partly on the footpath up to the limit line allows 2.4 metres of footpath width, which is similar to the distance from the back of the kerb to the 'corgi sculpture' a few metres south east. Behind the tram, even with the longest tram likely to operate in the area (19.9 metres long) there will be 2.72 metres of pavement area available for pedestrians to pass safely along Tuam Street behind the stopped tram.
  - (c) The issue of danger and disruption to traffic flows on the legal road has no bearing on the issue of whether or not the easement over the reserve should be granted. Also, the scheme plan has been safety audited and no concerns were raised in relation to tram traffic turning into and out of the reserve.
  - (d) The tram shelter will be designed, and located a short distance from the building within the easement area so as not to obstruct the view of the building nor impede pedestrian access. The shelter will be a scaled down version of the heritage style shelters on the current tram route and located in Cathedral Square, Victoria Square and at the Arts Centre. It will occupy a footprint measuring approximately 3.6 x 1.6 metres.
  - (e) Feedback from retailers in the area indicates that most are anticipating increased business as a result of additional visitors coming into the area by the tram. There was no opposition to the two parking spaces being removed from High Street when the overall changes to parking in the area (relating to the tram route) was consulted on and then discussed and approved by the Council on 24 June 2010.

24. The submitter who was in support of the easement claimed the following:
- (a) Because of the trams tow trailers and the most frequently used tram has forward facing seats and opening doors on the left side (like a bus) it is necessary to turn trams around before there return journey. Various alternatives were considered, but using this reserve to make the turn is the best and most practical option.
  - (b) By locating the tram stop in the reserve it enables the tram to be kept off the road when stopped, so as not to disrupt traffic, and also so as not to require a further reduction in car parks for a street side tram stop.
25. Council officers' response to each point was as follows:
- (a) The tram shelter is required to be on the building side of the track in the reserve to service the tram, which therefore by being in this location minimises the shelter's impact upon the reserve, it being towards the outside edge of the reserve.
  - (b) This point is supported by Council officers.

#### **RESERVES HEARINGS PANEL RECOMMENDATION**

The Tuam Street / High Street Corner Reserve Easement Hearings Panel recommends to the Council:

- (a) That the Council grant unto itself an easement, pursuant to section 48 (1)(a) as provided for by section 48 (6) of the Reserves Act 1977, over approximately 80 square metres, subject to survey, of the Tuam Street / High Street Corner Reserve (a reserve of approximately 286 square metres, held by the Council under the Christchurch City (Reserves) Empowering Act 1971 (item 34) as shown in the plan labelled 'RD 208937 Issue 6 dated 10/8/10' in which to lay tram rails, so as to allow for the passage and stopping of the tram, and to allow for the placement of tram shelter and tram wires, subject to the following conditions:
  - (i) The consent of the Minister of Conservation being obtained.
  - (ii) A title for the reserve being raised and the easement being registered on this title, as shown in plan RD208937 Issue 6 Attachment 1, in which to build tram tracks and a tram shelter.
  - (iii) The putting in place of a 'temporary protection plan' to be adhered to by the contractors undertaking the work to ensure that the historic rock wall around the garden is properly protected during the construction period.
  - (iv) The Corporate Support Manager in association with the Policy & Leasing Administrator being authorised to finalise and conclude the granting of the easement.

**Note:** As a result of this resolution, two sets of cycle stands and one seat will be relocated as shown in the plan (Attachment 1).