

Proposed easements over land that will vest in Council as Reserve upon subdivision

1.0 BACKGROUND

- 1.1 As part of the subdivision process it is sometimes necessary to have underground utility services through land that will vest in Council as Reserve once the subdivision is complete. Whilst the placing of utility services within Reserves is not encouraged it is sometimes unavoidable for operational reasons.
- 1.2 When land in a subdivision vests in Council as Reserve it vests free of all interests including any encumbrances. This means that new easements over Reserve have to be registered, and created, after the land has vested as Reserve.
- 1.3 Before easements can be created over land to be held by Council as Reserve the approval of Council under the Reserves Act 1977 is required whether that easement be for a Council utility or a third party utility network operator. This approval has been delegated by Council to the Reserves Officer Subcommittee in cases where the easement does not require public advertising.
- 1.4 In recent years the Reserves Officer Subcommittee has been presented with applications for easements over reserve land where the utility services have already been laid without prior consultation or approval.
- 1.5 This Bulletin sets out a procedure to establish a formal process for the creation of easements over Reserves.

2.0 PROCEDURES

2.1 Existing utility infrastructure already protected by Easement

Where there are existing easements of any kind over land that is to vest in Council as Reserve the effect of that easement is to be discussed with the Subcommittee contact person prior to submitting the subdivision consent application.

The agreed easements that can remain are to be included as Existing Easements within the survey title plan dataset. Council will certify pursuant to Section 239(2) of the Resource Management Act 1991 that the easements can remain when the land vests in Council.

2.2 Existing utility infrastructure not yet protected by Easement

Where easements to protect existing infrastructure and/or new or existing rights of way are required over land that is to vest in Council as Reserve upon subdivision, whether those easements be in favour of Council or any other utility network operator or any other purpose, the approval of the Reserves Officer Subcommittee of Council is required before the subdivision consent is granted.

The application for subdivision consent is to provide evidence of the Subcommittee approval.

These easements are to be included in a Schedule of Easements within the survey title plan dataset.

2.3 New utility infrastructure that requires protection by Easement

Where new utility infrastructure and/or rights of way, whether part of a Council owned network or an other utility operator network or for other purposes, is to be installed through land that is to vest in Council as Reserve upon subdivision and require protection by easement the approval of the Reserves Officer Subcommittee of Council is required before the engineering plans for the works are approved.

At the time of submission of the engineering plans the application is to include evidence of the Subcommittee approval.

These easements are to be included in a Schedule of Easements within the survey title plan dataset.

3.0 CERTIFICATION OF SURVEY PLAN DATASET UNDER S223 OF THE RESOURCE MANAGEMENT ACT 1991

- 3.1 The survey title plan dataset certification by Council under Section 223 of the Resource Management Act 1991 will be withheld where it includes easements over land that is to vest in Council as Reserve and those easements have not been approved by the Reserves Officer Subcommittee of Council.

4.0 DOCUMENTATION OF EASEMENTS

- 4.1 The legal instruments for all easements over land that is to vest in Council as Reserve are to be in registrable form before Council will issue the Section 224 Resource Management Act 1991 certificate for the subdivision.
- 4.2 The legal instruments for easements in favour of Council, whether over Reserve to vest or not, are to be prepared by Council at the consent holder's cost. This work will be outsourced by Council. In practice, the consent holder's solicitor will contact Anderson Lloyd Lawyers (Mike Kerr) requesting the preparation of the easement instruments.
- 4.3 Council will require a solicitor undertaking to register all the easements instruments before the reserve land is vested and when the new titles are issued provide copies of titles showing that the easements have been registered.
- 4.4 When Council has received the undertaking in 4.3 above the Section 224 Resource Management Act 1991 certificate for the subdivision will be issued provided all other conditions of the consent have also been satisfied

5.0 RESERVES OFFICER SUBCOMMITTEE CONTACT INFORMATION

- 5.1 The Council contact person is:
John Allen
Policy and Leasing Administrator
Transport and Greenspace Unit
DDI 941 8699
Email: john.allen@ccc.govt.nz

6.0 EFFECTIVE DATE

- 3.1 The procedures outlined above will be effective immediately.

7.0 RETROSPECTIVE EFFECT

- 7.1 The procedures outlined above will apply retrospectively to those subdivisions where subdivision consent has already been granted but not yet completed by the issue of council's certificate pursuant to Section 224 of the Resource Management Act 1991.